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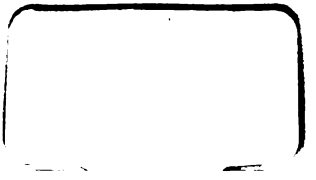

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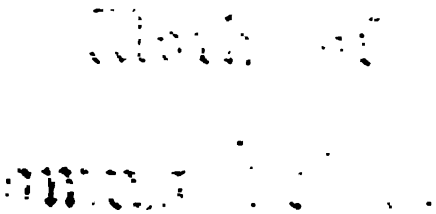

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ITINERARY AND CHRONOLOGY

OF

THOMAS JEFFERSON

1789–1792

1789.—Sept.		At Versailles.
	18.	Sends olive plants to America.
	24.	Pays parting visit to Neckar at Versailles.
	25.	Nominated for Secretary of State.
	26.	Confirmed by Senate.
	30.	At Havre.
Oct.		Sails from Havre.
	14.	At Cowes.
		Sails for America on the *Montgomery*.
		Off "The Needles."
Nov.	13.	Offered Secretaryship of State.
	21.	At Lynhaven Bay.
	23.	At Norfolk.
		At Hampton.
		At Richmond.
		Receives address from Virginia House of Delegates.
Dec.	14.	At Eppington.
	15.	At Chesterfield.
	24.	At Monticello.
1790.—Feb.	14.	Accepts Secretaryship of State.
	28.	Asks loan of Dutch bankers.
		His daughter, Martha, marries Thomas Mann Randolph.
Mar.	1.	Leaves Monticello.
	2.	At Tuckahoe.
		At Manchester and Fredericksburg.
	6.	At Richmond.
		At Dumfries.
	11–12.	At Alexandria.
		Receives address from Mayor.

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1790.—Mar. 11–12. At Georgetown, Baltimore, Chester.
At Philadelphia.
Has interview with Franklin.
At Trenton and Elizabethtown.
22. Arrives at New York.
29. Rents Robert and Peter Bruce house, Maiden Lane.
? Elected member of American Academy of Arts and Sciences.
? Opinion on Petition of Isaacs.
? Opinion on Woollen Manufactures in Virginia.
April 1. Opinion on Communications to Congress.
15. Reports on Copper Coinage.
24. Opinion on Senate's Negative of Grade.
May 3. Opinion on Georgian Land Grants.
Sick with headache.
June 2. Rents No. 57 Maiden Lane.
3. Opinion on Soldiers' Accounts.
7. Goes on sailing party with President.
Arranges with Hamilton the Assumption and Capital Compromise.
July 4. Reports on coinage, weights, and measures.
12. Opinion on British-Spanish War.
15. Opinion on Residence Bill.
17. Report on Expenses of Foreign Missions.
29. Opinion on Indian Trade Monopoly.
Aug. 13. Leaves New York.
17. At Newport.
18. At Providence.
21. At New York.
22. Drafts Considerations on Navigation of Mississippi.
26. Opinion on Foreign Debt.
28. Opinion on Course towards Britain and Spain.
29. Opinion on St. Clair expedition.
Sept. 1. Leaves New York.
2. At Trenton.
3–6. At Philadelphia.
At Wilm ngton, Chester, Annapolis, Georgetown, Alexandria, Mount Vernon, Dumfries, and Fredericksburg.
20. Arrives at Monticello.
Oct. 5. At Tuckahoe and Goochland Court House.
7. At Monticello.
9. At Eppington.

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1790.—Nov. 8. Leaves Monticello.
21. Reaches Philadelphia.
? Resides at 274 High (now Market) Street.
Offices of Department of State at 207 High Street.
29. Opinion on Capital.
Dec. 8. Drafts paragraphs for President's message.
14. Reports on Western lands.
Opinion on North West Territory.
Opinion on Territorial Authority.
15. Reports on Mission of Morris.
18. Reports on Tonnage Law.
28. Reports on Mediterranean Trade.
1791. Reports on Algerian Prisoners.
Feb. 1. Draws resolution for Senate on Algiers.
Reports on Fisheries.
7. Drafts Patent Bill.
9. Advertises Elkhill for sale.
14. Drafts President's message on British Negotiations.
15. Opinion on National Bank.
19. Reports on Vermont.
28. Offers Freneau a place.
Mar. 4. Drafts President's message on Vermont.
11. Opinion on "Ten Mile Square."
May Endorses *Rights of Man*.
Endeavoring to induce Freneau to start a paper.
16. Leaves Philadelphia.
19–20. At New York.
28. At Saratoga.
30. On Lake George.
31. On Lake Champlain—Ticonderoga and Crown Point.
At Saratoga, Stillwater.
June 5. At Bennington.
Prevented from travel by Sunday laws.
Passes through Connecticut valley.
8. At Springfield and Hartford.
16. At New York.
19. Reaches Philadelphia.
July 10. Endeavors to have Thomas Paine appointed Postmaster.
Aug. 13. Converses with Hamilton about Adams.
Nov. 8. Reports on Indian Lands.
10. Reports on Mangnall.

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1791.—Nov.	14.	Reports on Howe.
	?	Frames clauses for French Treaty of Commerce.
	26.	Drafts "questions to be considered of."
Dec.	2.	Drafts resolutions concerning Algiers.
	6.	Note on Spanish negotiations.
	12.	Notes on British negotiations.
	16.	Drafts President's message on Indian War.
	19.	Opinion on Lands.
	22.	Reports on Spanish negotiations.
	27.	Note on Spanish negotiations.
1792.—Jan.	1.	Drafts President's message on Diplomatic Nominations.
	3.	Has interview with Committee of Senate.
	10.	Reports on Commercial Restrictions of Denmark.
	15.	First suggests retirement from Cabinet.
	22.	Reports on Russell.
	25.	Drafts letter of President to Secretary of War.
Feb.	12.	Has interview with Beckwith.
	28.	Prepares plan of posts.
		Announces to President his intention to leave office.
Mar.	7.	Draft of report on Spanish negotiations.
	9.	Cabinet meeting on Western questions.
	12.	Notes on Commercial Policy towards Great Britain.
	16.	Reports on Spanish negotiations.
	22.	Reports on Convention with Spain.
		Project of Convention.
	31.	Cabinet meeting on St. Clair's defeat.
Apr.	1.	Draws Considerations on Algiers.
	4.	Opinion on Apportionment Bill.
	5.	Drafts Veto Message of Apportionment bill.
	10.	Drafts questions for Senate on Algiers.
May	23.	At Philadelphia.
		Writes Washington of intended resignation.

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CORRESPONDENCE AND MISCELLANEOUS WRITINGS

1789–1792

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CORRESPONDENCE

AND

MISCELLANEOUS WRITINGS

1789–1792

TO JAMES MADISON J. MSS.

PARIS September 6, 1789.

DEAR SIR,—I sit down to write to you without knowing by what occasion I shall send my letter. I do it because a subject comes into my head which I would wish to develope a little more than is practicable in the hurry of the moment of making up general despatches.

The question Whether one generation of men has a right to bind another, seems never to have been started either on this or our side of the water. Yet it is a question of such consequences as not only to merit decision, but place also, among the fundamental principles of every government. The course of reflection in which we are immersed here on the elementary principles of society has presented this question to my mind; and that no such obligation can be transmitted I think very capable of proof. I set out on this ground which I suppose to be self evident, "*that the earth belongs in usufruct to the*

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living;" that the dead have neither powers nor rights over it. The portion occupied by any individual ceases to be his when himself ceases to be, and reverts to the society. If the society has formed no rules for the appropriation of its lands in severalty, it will be taken by the first occupants. These will generally be the wife and children of the decedent. If they have formed rules of appropriation, those rules may give it to the wife and children, or to some one of them, or to the legatee of the deceased. So they may give it to his creditor. But the child, the legatee or creditor takes it, not by any natural right, but by a law of the society of which they are members, and to which they are subject. Then no man can by *natural right* oblige the lands he occupied, or the persons who succeed him in that occupation, to the paiment of debts contracted by him. For if he could, he might during his own life, eat up the usufruct of the lands for several generations to come, and then the lands would belong to the dead, and not to the living, which would be reverse of our principle. What is true of every member of the society individually, is true of them all collectively, since the rights of the whole can be no more than the sum of the rights of individuals. To keep our ideas clear when applying them to a multitude, let us suppose a whole generation of men to be born on the same day, to attain mature age on the same day, and to die on the same day, leaving a succeeding generation in the moment of attaining their mature age all together. Let the ripe age be supposed of 21. years, and their period of life 34. years more, that being the

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average term given by the bills of mortality to persons who have already attained 21. years of age. Each successive generation would, in this way, come on and go off the stage at a fixed moment, as individuals do now. Then I say the earth belongs to each of these generations during it's course, fully, and in their own right. The 2d. generation receives it clear of the debts and incumbrances of the 1st., the 3d. of the 2d. and so on. For if the 1st. could charge it with a debt, then the earth would belong to the dead and not the living generation. Then no generation can contract debts greater than may be paid during the course of it's own existence. At 21. years of age they may bind themselves and their lands for 34. years to come: at 22. for 33: at 23 for 32. and at 54 for one year only; because these are the terms of life which remain to them at those respective epochs. But a material difference must be noted between the succession of an individual and that of a whole generation. Individuals are parts only of a society, subject to the laws of a whole. These laws may appropriate the portion of land occupied by a decedent to his creditor rather than to any other, or to his child, on condition he satisfies his creditor. But when a whole generation, that is, the whole society dies, as in the case we have supposed, and another generation or society succeeds, this forms a whole, and there is no superior who can give their territory to a third society, who may have lent money to their predecessors beyond their faculty of paying.

What is true of a generation all arriving to self-government on the same day, and dying all on the

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same day, is true of those on a constant course of decay and renewal, with this only difference. A generation coming in and going out entire, as in the first case, would have a right in the 1st year of their self dominion to contract a debt for 33. years, in the 10th. for 24. in the 20th. for 14. in the 30th. for 4. whereas generations changing daily, by daily deaths and births, have one constant term beginning at the date of their contract, and ending when a majority of those of full age at that date shall be dead. The length of that term may be estimated from the tables of mortality, corrected by the circumstances of climate, occupation &c. peculiar to the country of the contractors. Take, for instance, the table of M. de Buffon wherein he states 23,994 deaths, and the ages at which they happened. Suppose a society in which 23,994 persons are born every year and live to the ages stated in this table. The conditions of that society will be as follows. 1st. it will consist constantly of 617,703 persons of all ages. 2dly. of those living at any one instant of time, one half will be dead in 24. years 8. months. 3dly. 10,675 will arrive every year at the age of 21. years complete. 4thly. it will constantly have 348,417 persons of all ages above 21. years. 5ly. and the half of those of 21. years and upwards living at any one instant of time will be dead in 18. years 8. months, or say 19. years as the nearest integral number. Then 19. years is the term beyond which neither the representatives of a nation, nor even the whole nation itself assembled, can validly extend a debt.

To render this conclusion palpable by example,

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suppose that Louis XIV. and XV. had contracted debts in the name of the French nation to the amount of 10.000 milliards of livres and that the whole had been contracted in Genoa. The interest of this sum would be 500 milliards, which is said to be the whole rent-roll, or nett proceeds of the territory of France. Must the present generation of men have retired from the territory in which nature produced them, and ceded it to the Genoese creditors? No. They have the same rights over the soil on which they were produced, as the preceding generations had. They derive these rights not from their predecessors, but from nature. They then and their soil are by nature clear of the debts of their predecessors. Again suppose Louis XV. and his contemporary generation had said to the money lenders of Genoa, give us money that we may eat, drink, and be merry in our day; and on condition you will demand no interest till the end of 19. years, you shall then forever after receive an annual interest of [1] $12\frac{5}{8}$ per cent. The money is lent on these conditions, is divided among the living, eaten, drank, and squandered. Would the present generation be obliged to apply the produce of the earth and of their labour to replace their dissipations? Not at all.

I suppose that the received opinion, that the public debts of one generation devolve on the next, has been suggested by our seeing habitually in private life that he who succeeds to lands is required to pay the debts

[1] 100£ at a compound interest of 6 ℔ cent makes at the end of 19 years an aggregate of principal and interest of £252.14 the interest of which is a £12ᵐᵒ 12ˢ. 7ᵈ which is nearly 12ˢ p. cent on the first capital of £100.

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of his ancestor or testator, without considering that this requisition is municipal only, not moral, flowing from the will of the society which has found it convenient to appropriate the lands become vacant by the death of their occupant on the condition of a paiment of his debts; but that between society and society, or generation and generation there is no municipal obligation, no umpire but the law of nature. We seem not to have perceived that, by the law of nature, one generation is to another as one independant nation to another.

The interest of the national debt of France being in fact but a two thousandth part of it's rent-roll, the paiment of it is practicable enough; and so becomes a question merely of honor or expediency. But with respect to future debts; would it not be wise and just for that nation to declare in the constitution they are forming that neither the legislature, nor the nation itself can validly contract more debt, than they may pay within their own age, or within the term of 19. years? And that all future contracts shall be deemed void as to what shall remain unpaid at the end of 19. years from their date? This would put the lenders, and the borrowers also, on their guard. By reducing too the faculty of borrowing within its natural limits, it would bridle the spirit of war, to which too free a course has been procured by the inattention of money lenders to this law of nature, that succeeding generations are not responsible for the preceding.

On similar ground it may be proved that no society can make a perpetual constitution, or even a

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perpetual law. The earth belongs always to the living generation. They may manage it then, and what proceeds from it, as they please, during their usufruct. They are masters too of their own persons, and consequently may govern them as they please. But persons and property make the sum of the objects of government. The constitution and the laws of their predecessors extinguished them, in their natural course, with those whose will gave them being. This could preserve that being till it ceased to be itself, and no longer. Every constitution, then, and every law, naturally expires at the end of 19. years. If it be enforced longer, it is an act of force and not of right.

It may be said that the succeeding generation exercising in fact the power of repeal, this leaves them as free as if the constitution or law had been expressly limited to 19. years only. In the first place, this objection admits the right, in proposing an equivalent. But the power of repeal is not an equivalent. It might be indeed if every form of government were so perfectly contrived that the will of the majority could always be obtained fairly and without impediment. But this is true of no form. The people cannot assemble themselves; their representation is unequal and vicious. Various checks are opposed to every legislative proposition. Factions get possession of the public councils. Bribery corrupts them. Personal interests lead them astray from the general interests of their constituents; and other impediments arise so as to prove to every practical man that a law of limited duration is much more manageable than one which needs a repeal.

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This principle that the earth belongs to the living and not to the dead is of very extensive application and consequences in every country, and most especially in France. It enters into the resolution of the questions Whether the nation may change the descent of lands holden in tail? Whether they may change the appropriation of lands given antiently to the church, to hospitals, colleges, orders of chivalry, and otherwise in perpetuity? whether they may abolish the charges and privileges attached on lands, including the whole catalogue ecclesiastical and feudal? it goes to hereditary offices, authorities and jurisdictions; to hereditary orders, distinctions and appellations; to perpetual monopolies in commerce, the arts or sciences; with a long train of *et ceteras:* and it renders the question of reimbursement a question of generosity and not of right. In all these cases the legislature of the day could authorize such appropriations and establishments for their own time, but no longer; and the present holders, even where they or their ancestors have purchased, are in the case of *bona fide* purchasers of what the seller had no right to convey.

Turn this subject in your mind, my Dear Sir, and particularly as to the power of contracting debts, and develope it with that perspicuity and cogent logic which is so peculiarly yours. Your station in the councils of our country gives you an opportunity of producing it to public consideration, of forcing it into discussion. At first blush it may be rallied as a theoretical speculation; but examination will prove it to be solid and salutary. It would furnish matter for a

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fine preamble to our first law for appropriating the public revenue; and it will exclude, at the threshold of our new government the contagious and ruinous errors of this quarter of the globe, which have armed despots with means not sanctioned by nature for binding in chains their fellow-men. We have already given, in example one effectual check to the Dog of war, by transferring the power of letting him loose from the executive to the Legislative body, from those who are to spend to those who are to pay. I should be pleased to see this second obstacle held out by us also in the first instance. No nation can make a declaration against the validity of long-contracted debts so disinterestedly as we, since we do not owe a shilling which may not be paid with ease principal and interest, within the time of our own lives. Establish the principle also in the new law to be passed for protecting copy rights and new inventions, by securing the exclusive right for 19. instead of 14. years [*a line entirely faded*] an instance the more of our taking reason for our guide instead of English precedents, the habit of which fetters us, with all the political herecies of a nation, equally remarkable for it's encitement from some errors, as long slumbering under others. I write you no news, because when an occasion occurs I shall write a separate letter for that.[1]

[1] Jefferson also sent a copy of this letter to Dr. Gem, writing him further:

"The hurry in which I wrote my letter to Mr. Madison which is in your hands, occasioned an inattention to the difference between generations succeeding each other at fixed epochs, and generations renewed daily and hourly. It is true that in the former case the generation, when at 21. years of age, may contract a debt for 34. years, because a

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TO WILLIAM CARMICHAEL J. MSS.

PARIS Sep. 12. 1789.

DEAR SIR,—I have duly received your favor of Aug. 13. and I have written to Francesco and Giuseppe Chiappe both, to assure them of the friendly light in which our government will view the restitution of the schooner from Salem, made by the emperor. I have lately received letters & papers from America to the 25th. of July. New York and N. Hampshire had elected their senators, so that that branch of our legislature was complete. Congress had decided that the president should have no title of courtesy. The bill for the impost was past. That also for establishing an office of foreign affairs. Bills for establishing offices of war & of finance, for establishing a federal judicature, for the government of the western country, establishing a land office, for an impost on tonnage, for fixing the President's allowance at 25.000. & the Vice-president's at 5000. dollars a year, were so far advanced as to be near

majority of them will live so long. But a generation consisting of all ages, & which legislates by all it's members above the age of 21. years, cannot contract for so long a time, because their majority will be dead much sooner. Buffon gives us a table of 23,994 deaths, stating the ages at which they happened. To draw from these the result I have occasion for, I suppose a society in which 23,994 persons are born every year and live to the ages stated in Buffon's table. Then the following inferences may be drawn. Such a society will consist constantly of 617,703 persons of all ages. Of those living at any one instant of time, one half will be dead in 24. years 8. months. In such a society, 10,675 will arrive every year at the age of 21. years complete. It will constantly have 348.417 persons of all ages above 21. years, & the half of those of 21. years & upwards living at any one instant of time will be dead in 18. years 8. months, or say 19. years.

"Then, the contracts, constitutions & laws of every such society become void in 19. years from their date."

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their passage. They had refused to establish a Secretary for the domestic departments. New York had passed a law appointing commissioners to agree with the state of Vermont on the conditions of its independance. None of the higher federal offices were yet filled.

With respect to the extraordinary expences which you may be under the necessity of incurring at the coronation, I am not authorized to give any advice, nor does any body, my dear Sir, need it less than yourself. I should certainly suppose that the representative of the U. S. at Madrid, was to do as the representatives of other sovereignties do, and that it would be viewed as the complement of our nation & not of it's minister. If this be the true point of view, it proves at whose expence it should be. But my opinion would be viewed as an interested one, & therefore of no weight. In some letter which I had the honor of writing you a year & a half or two years ago (for having packed my letters I cannot name the date exactly) I took the liberty of saying what I thought would be prudent relative to the Algerine captives from that time forward. The two accompts you send me I will take with me to America, & undertake to place you at ease as to them. But I believe you cannot keep yourself too clear as to others. I will write you more fully when I shall have conferred with our government, and if you are not placed more at ease on other accounts it will not be that I have not a due sense of the necessity of it, nor that I shall be wanting in expressing that sense. I have received my leave of absence, & my baggage is already gone

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off. I shall follow myself in about 10. days, so as to sail about the last of the month, I am not certain whether from Havre or Lorient. Mr. Short being named Chargé des Affairs in my absence will be happy in your correspondence till I can resume it.

TO RALPH IZARD J. MSS.

PARIS Sep. 18. 1789.

DEAR SIR,—I have received by Mr. Cutting your favor of April 3. In order to ascertain what proportion of your rice might be taken off by this country, I applied to the proper officer and obtained a statement of their importations of rice for a twelve month, and from what countries. This I inclose to you. You will observe it is between 81 and 82 thousand quintals, which I suppose to be about a fourth or fifth of your whole exportation. A part of this will always be from Piedmont, but yours may gain ground from two causes: 1st. It's preference over that of Piedmont increases. 2dly. The consumption increases. Paris and the seaport towns are the principal places of consumption, but most of all Paris. Havre therefore is unquestionably the deposit for it, because from thence it may come up the river, or be shipped to any foreign market as conveniently as from Cowes. I wish much you had a good merchant or consignee there. There is a brother of Cutting's there, of whom I hear good spoken, but I do not know him myself. All I know is that an honest, intelligent & active consignee there (or two of them) could do im-

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mense service to your countrymen.—When I received your letter I was too near the time of my departure to undertake to procure from Constantinople the intelligence you desired relative to that as a market for your rice. I therefore wrote to a merchant of my acquaintance at Marseilles engaged in the Levant and also in the American trade. I asked from him the prices current of Constantinople & of Marseilles for some years past. I inclose you his answer, giving only the present price at Marseilles, & the price of a particular cargo only at Constantinople. When I return here I will try through the French Ambassador at Constantinople to get more particular information, but we must get rid of the Algerines. I think this practicable by means honorable & within our power, but of this we will converse when I shall have the honor of seeing you at New York, which will be in February, if there be no particular cause for my going on there till I shall have arranged the private business which has rendered it necessary for me to visit my country.—I wish the cargo of olives spoken of in the inclosed letter, & which went to Baltimore, may have got on safe to Carolina, & that the one he is about to send may also arrive safe. This my dear friend should be the object of the Carolina patriot. After bread, I know no blessing to the poor, in this world, equal to that of oil. But there should be an annual sum steadily applied to that object: because a first and second essay may fail. The plants cost little; the transportation little. It is unremitting attention which is requisite. A common country labourer whose business it should be to

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prepare and pack his plants at Marseilles & to go on with them through the canal of Languedoc to Bordeaux and there stay with them till put on board a ship to Charleston, & to send at the same time great quantities of the berries to sow for stocks, would require but a moderate annual sum. He would make the journey every fall only, till you should have such a stock of plants taken in the country, as to render you sure of success. But of this too we will talk on meeting. The crisis of this country is not yet absolutely past. The unskilfulness of new administrators leaves the Capital in danger of the confusion which may attend the want of bread surrounded by a country which has just gathered in a plentiful harvest.

TO THE SECRETARY FOR FOREIGN AFFAIRS (JOHN JAY)

J. MSS.

HAVRE Sep. 30, 1789.

SIR,—No convenient ship having offered from any port of France I have engaged one from London to take me up to Cowes, and am so far on my way thither. She will land me at Norfolk, & as I do not know any service that would be rendered by my repairing immediately to New York, I propose, in order to economise time, to go directly to my own house, get through the business which calls me there, and then repair to New York where I shall be ready to reembark for Europe. But should there be any occasion for government to receive any information I can give, immediately on my arrival, I will go to New

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York on receiving your orders at Richmond. They may probably be there before me, as this goes by Mr. Trumbull, bound directly for New York. I inclose you herewith the proceedings of the National assembly on Saturday last, wherein you will perceive that the comittee had approved the plan of Mr. Neckar. I can add from other sure information received here, that the assembly adopted it the same evening. This plan may possibly keep their paiments alive until their new government gets into motion; tho I do not think it very certain. The public stocks lowered so exceedingly the last days of my stay at Paris, that I wrote to our bankers at Amsterdam, to desire that they retain till further orders the 30,000 guilders, or so much of it as was not yet come on. And as to what might be already coming on I recommended to Mr. Short to go & take the acceptances himself, & keep the bill in his own hands till the time of paiment. He will by that time be able to see what is best to be done with the money.

In taking leave of Monsieur de Montmorin I asked him whether their West India ports would continue open to us awhile. He said they would be immediately declared open till February; and we may be sure they will be so till the next harvest. He agreed with me that there would be two or three months provision for the whole kingdom wanting for the ensuing year. The consumption of bread for the whole kingdom is two millions of livres tournois a day. The people pay the real price of their bread everywhere except at Paris & Versailles. There the price is suffered to vary very little as to them, &

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government pays the difference. It has been supposed that this difference for some time past has cost a million a week. I thought the occasion favorable to propose to Monsieur de Montmorin the free admission of our salted provisions, observing to him particularly that our salted beef from the Eastern states could be dealt out to the people of Paris for 5. or 6. sols the pound, which is but half the common price they pay for fresh beef: that the Parisian paying less for his meat, might pay more for his bread, & so relieve government from it's enormous loss on that article. His idea of this resource seemed unfavorable. We talked over the objections of the supposed unhealthiness of that food, it's tendency to produce scurvy, the chance of its taking with a people habituated to fresh meat, their comparative qualities of rendering vegetables eatable, & the interests of the gabelles. He concluded with saying the experiment might be tried, & with desiring me to speak with Mr. Neckar. I went to Mr. Neckar, & he was gone to the National assembly. On my return to Paris therefore I wrote to him on the subject, going over the objections which Monsieur de Montmorin had started. Mr. Short was to carry the letter himself & to pursue the subject. Having observed that our commerce to Havre is considerably on the increase, & that most of our vessels coming there, & especially those from the Eastward are obliged to make a voyage round to the neighborhood of the Loire & Garonne for salt, a voyage attended with expense, delay, & more risk, I have obtained from the farmers general that they shall be supplied

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from their magazines at Honfleur, opposite to Havre, at a mercantile price. They fix it at present at 60 livres the *muid*, which comes to about 15 sous, or 7½d sterling our bushel: but it will vary as the price varies at the places from which they bring it. As this will be a great relief to such of our vessels coming to Havre as might wish to take back salt, it may perhaps be proper to notify it to our merchants. I inclose herewith Mr. Neckar's discourse to the assembly which was not printed when I left Paris.

TO JAMES RUMSEY J. MSS.

Cowes Octobr 14. 1789.

Dear Sir,—I am honoured with your favor of the 4th instant and will pay attention to what you say on the subject of the Barker's mill your friends beyond the water are about to erect. I am sincerely sorry not to have know[n] the result of your experiment for steam navigation before my departure. Tho I have already been detained here & at Havre 16. days by contrary winds I mu[st] hope that detention will not continue till your experime[nt] be tried. As I feel infinitely interested in it's success, would you be so good, my dear Sir, as to drop me a line on the subject as soon as the experiment shall be made. If directed to me at Richmond to the care of Mr. Alexr. Donald, & sent by a Virginia ship, I shall get it with certainty. As soon as your experiment shall be over Mr. Short will do for you at Paris whatever I could have done towards obtaining you a patent there.

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TO WILLIAM SHORT J. MSS.

LYNHAVEN BAY Nov. 21. 1789.

DEAR SIR,—Tho' a committee of American captains at Cowes had [de]termined we must expect a nine weeks passage, the winds [and] weather have so befriended us that we are come to an anch[orage] here 29. days after weighing anchor at Yarmouth, having bee[n] only 26. days from land to land. After getting clear of the etern[al] fogs of Europe, which required 5. or 6. days sailing, the sun broke out upon us, & gave us fine autumn weather almost cons[tant]ly thro the rest of the voyage, & so warm that we had no occas[ion] for fire. In the gulph stream only we had to pass thro' the squalls of wind & rain which hover generally over that tepid cur[r]ent: & thro the whole we had had nothing stronger tha[n] what seamen call a stiff breeze: so that I have now passed the Atlantic twice without knowing what a storm is. When we had passed the meridian of the Western islands, our weather w[as] so fine that it would have been madness to go 1000. miles out of our way to seek what would not have been better. So we determin[ed] to push on the direct course. We left the banks of Newf[oundland] about as far on our right as the Western islands on our left notwithstanding the evidence of their quadrants to the contrary some of the sailors insisted we were in the trade winds. Our sickness in the beginning was of 3. 4. or 5 days, severe enough. Since that we have been perfectly well. We separated from Mr. Trumbull's ship the evening on which I wrote you from the needles, & I never saw her more. Our ship is

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two years old only, excellently accommodated, in ballast, and among the swiftest sailors on the ocean. Her captain a bold & judicious seaman, a native of Norfolk, whose intimate knowledge of our coast has been of both confidence & security to us. So that as we had in prospect every motive of satisfaction, we have found it still greater in event. We came to anchor here because no pilot has yet offered. Being within 15. miles of Norfolk by land, I have some thought of going ashore here in the morning, & going by land to that city. I wrote this from hence in hopes some outward bound vessel may be met to which it may be consigned. My plants & shepherd dogs are well. Remember me to enquiring friends, and accept assurances of sincere esteem & attachment with which I am Dear Sir.

TO THE SECRETARY FOR FOREIGN AFFAIRS J. MSS. (JOHN JAY)

NORFOLK Nov. 23. 1789.

SIR,—I think it my duty to inform you that I am this day arrived here after a passage of 26 days from land to land. By the *Montgomery*, Capt. Bunyan, which sailed from Cowes at the same time with us, I had the honor of addressing you and of sending you the Letter book & account book of Silas Deane, which I put into the hands of Mr. Trumbull, who I presume is arrived at New York. According to what I proposed in that letter I shall proceed first to my own house to arrange those matters which have

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called for my presence there, and, this done, go on to New York, in order for my embarcation: where I shall first have occasion to confer with you in order to take the sense of government on some subjects which require vivâ voce explanations. I hope to be with you as early as the season will admit a tolerable passage.

TO WILLIAM SHORT J. MSS.

EPPINGTON, Dec. 14, 1789.

DEAR SIR,—My last letter was written to you on our coming to anchor. Since that my time has been divided between travelling and the society of my friends, and I avail myself of the first vacant interval to give you the news of the country to which therefore I shall proceed without further prelude.

MARRIAGES.—Ben. Harrison of Brandon to a daughter of Mrs. Byrd.

Doctor Currie to a widow Ingles, daur. of Mr. Atcheson.

Polly Cary to a Mr. Peachy of Amelia.

N. Burrell of the grove, to the widow of Colo. Baylor, a Page formerly.

Betsy Taliaferro to a Mr. Call.

Nancy Taliaferro to a Mr. Nicholas son of G. Nicholas, Petersburg.

Becca Taliaferro to and she dead.

Two of R. Adams's daurs. to

Peter Randolph of Chatsworth to Miss Southall of Wmsburgh.

Your brother, Peyton Short to Miss Sym[mes],

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daur. of a Mr. Sym[mes] formerly member of Congress for Jersey, & one of the partners in the great purchases of lands made of Congress. Your brother is to bring his wife to New York in the spring, then to come here alone to persuade his friends & particularly your sisters to go with him to Kentuckey, to which place he will return again by New York.

DEATHS.—Colo. Dick Cary, the Judge.
James Cocke of Wmsburgh.
Governor Caswell of Caroline.
Colo. Taliaferro near Wmsburgh.
Colo. Jordan of Buckingham.
Mrs. Harris of Powhatan.
Mrs. Norton.
Mrs. Diggs (wife of Colo. Dudley D.)
Mrs. Nicholas, widow of R. C. Nicholas.
Mrs. Lindsay, wife of Reuben Lindsay.
Terence, your servant.

MISCELLANEOUS EVENTS.—Mr. Wythe has abandoned the college of Wm. & Mary, disgusted with some conduct of the professors, & particularly of the ex-professor Bracken, & perhaps too with himself for having suffered himself to be too much irritated with that. The visitors will try to condemn what gave him offence & press him to return: otherwise it is over with the college. Mr. Henry at the present session made an unsuccessful attempt to get a portion of the revenues of Wm. & Mary transferred to Hampden Sidney: that academy too abandoned by Smith is going to nothing owing to the religious phrensy they have inspired into the boys young and old which

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their parents have no taste for. North Carolina has acceded to the new constitution by a great majority, we have not heard whether at the same time they accepted the new amendments. These have been accepted by our H. of delegates, but will probably not be so, entire, by the Senate, $\frac{7}{8}$ of whom are antifederal. Rhode island has again refused the new constitution. Antifederalism is not yet dead in this country. The Gentlemen who opposed it[1] retain a good deal of malevolence towards the new Government: Henry is it's avowed foe. He stands higher in public estimation than he ever did, yet he was so often in the minority in the present assembly that he has quitted it, never more to return, unless an opportunity offers to overturn the new constitution. E. Randolph made a proposition to call a convention to amend our form of government. It failed as he expected.—Our new capitol, when the corrections are made, of which it is susceptible, will be an edifice of first rate dignity, whenever it shall be finished with the proper ornaments belonging to it (which will not be in this age) will be worthy of being exhibited along side the most celebrated remains of antiquity, it's extreme convenience has acquired it universal approbation. There is one street in Richmond (from the bridge straight on towards Currie's) which would be considered as handsomely built in any city of Europe. The town below Shockoe creek is so deserted that you cannot get a person to live in a house there rent free. Ways's bridge is repaired and

[1] In the letter as sent "new constitution" takes the place of "it." See *Southern Bivouac*, ii., 430.

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brings him in about 20 dollars a day. He will be obliged however to take it away during two or three months of the year, for fear of floods. He has taken advantage of two islands so that it consists of three bridges, the first & second of which, next to Richmond are of pontoons; the third is on boats. There is 2200 feet of bridge in the whole. The canal from Westham will be opened three days hence and the canoes then come to Broadrock, within 2 miles of Richmond. It will be 3 years before the residue will be finished. There are two locks only, & will be no more. Our neighborhood at Monticillo is much improved. Colo Monroe is living at Charlottesville; so is John Nicholas of Buckingham who is married to Louisa Carter of Wmsburg. A Colo. Bell is there also, who is said to be a very good man. Doctr. Gilmer where Dick Harris lived: the latter with his mother &c. gone to Georgia. Molly Nicholas keeps batchelor's house in Williamsburg. So does Polly Stith, and Becca Lewis (sister of Warner) is coming there to do the same. Tabby Eppes has not yet come to that resolution. Brackenridge whom you knew lives at the globe near I. Colds. Wilson Nicholas lives in Albemarle also, on the great river. Joshua Fry has sold his lands there to E. Randolph, who by this & other purchases has embarrassed himself a good deal.

Appointments, Supreme Court, Mr. Jay, J. Rutledge, Wilson, Cushing, Rob. H. Harrison, J. Blair.

Every state forms a District, and has a District court. E. Pendleton was appointed District Judge of Virginia: but he refuses. Several Districts form

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a Circuit (of which there are three in the whole) the circuit court is composed of two of the supreme Judges and the Judge of the District wherever they are sitting so that the latter need never go out of his State, whereas the supreme judges will be [compelled?] to make four journies a year, two to New York, two to the District Courts of their circuit. Marshall is Attorney for the District Court of Virginia & E. Carrington marshall of it, i. e. sheriff. E. Randolph is Atty. Genl. for the Supreme court & removes to New York the beginning of next month.

Osgood is Postmaster-general. Salaries are as follows:

Secretary of State	3500 Dollars
of the Treasury	3500.
of War	3000.
Comptroller of the treasury	2000.
Auditor	1500
Treasurer	2000
Register	1250
Governor of the Western territory	2000
Judges of the Western territory	800
Assistant of Secretary of treasury	1500
of Secretary of State	800
of Secretary of War	600

Congress have suppressed the Secretaryship of foreign Affairs, and put that and the whole domestic administration (war and finance excepted) into one principal department, the person at the head of which is called the Secretary of State. When I arrived at Norfolk, I saw myself in the newspapers

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nominated to that Office; and here I have received the commission & President's letter. In this however he very kindly leaves it optional in me to accept of that or remain at Paris as I chuse. It was impossible to give a flat refusal to such a nomination. My answer therefore is that the office I hold is more agreeable to me, but yet if the President thinks the public service will be better promoted by my taking that at New York I shall do it. I do not know how it will end; but I suppose in my remaining as I am. —Frugality is a good deal restored in this country & domestic manufactures resumed. Mr. Skipwith, who is here, promises me to write you fully on your affairs. I make up a bundle of newspapers for you, but I shall endeavor to send them clear of postage so that they may get separated from this. To-morrow I go on with Mr. Skipwith to his house, and then plunge into the Forests of Albemarle. You will not hear from me again till I go on to New York which will be in March. Remember me to all my friends who may ask after me, as if I had here named them; and believe me to be your affectionate friend & Servt.

TO THE PRESIDENT OF THE UNITED STATES J. MSS.

CHESTERFIELD, December 15th, 1789.

SIR,—I have received at this place the honor of your letters of October 13th and November the 30th, and am truly flattered by your nomination of me to the very dignified office of Secretary of State for which permit me here to return to you my very

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humble thanks. Could any circumstance induce me to overlook the disproportion between its duties and my talents, it would be the encouragement of your choice. But when I contemplate the extent of that office, embracing as it does the principal mass of domestic administration, together with the foreign, I can not be insensible to my inequality to it; and I should enter on it with gloomy forebodings from the criticisms and censures of a public, just indeed in their intentions, but sometimes misinformed and misled, and always too respectable to be neglected. I can not but foresee the possibility that this may end disagreeably for me, who, having no motive to public service but the public satisfaction, would certainly retire the moment that satisfaction should appear to languish. On the other hand, I feel a degree of familiarity with the duties of my present office, as far, at least, as I am capable of understanding its duties. The ground I have already passed over enables me to see my way into that which is before me. The change of government, too, taking place in the country where it is exercised, seems to open a possibility of procuring from the new rulers some new advantages in commerce, which may be agreeable to our countrymen. So that as far as my fears, my hopes, or my inclination might enter into this question, I confess they would not lead me to prefer a change.

But it is not for an individual to choose his post. You are to marshal us as may be best for the public good; and it is only in the case of its being indifferent to you, that I would avail myself of the option

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you have so kindly offered in your letter. If you think it better to transfer me to another post, my inclination must be no obstacle; nor shall it be, if there is any desire to suppress the office I now hold or to reduce its grade. In either of these cases, be so good as only to signify to me by another line your ultimate wish, and I will conform to it accordingly. If it should be to remain at New York, my chief comfort will be to work under your eye, my only shelter the authority of your name, and the wisdom of measures to be dictated by you and implicitly executed by me. Whatever you may be pleased to decide, I do not see that the matters which have called me hither will permit me to shorten the stay I originally asked; that is to say, to set out on my journey northward till the middle of March. As early as possible in that month, I shall have the honor of paying my respects to you in New York. In the meantime, I have that of tendering you the homage of those sentiments of respectful attachment with which I am, Sir, your most obedient and most humble servant.

TO THE REV. CHARLES CLAY J. MSS.

MONTICELLO, Jan 27, 1790.

DEAR SIR,—I had hoped that during my stay here I could have had the pleasure of seeing you in Bedford, but I find it will be too short for that. Besides views of business in that county I had wished again to visit that greatest of our curiosities the Natural bridge, and did not know but you might

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have the same desire.—I do not know yet how I am to be disposed of, whether kept at New York or sent back to Europe. If the former, one of my happinesses would be the possibility of seeing you there; for I understand you are a candidate for the representation of your district in Congress. I cannot be with you to give you my vote; nor do I know who are to be the Competitors: but I am sure I shall be contented with such a representative as you will make, because I know you are too honest a patriot not to wish to see our country prosper by any means, tho' they be not exactly those you would have preferred; and that you are too well informed a politician, too good a judge of men, not to know, that the ground of liberty is to be gained by inches, that we must be contented to secure what we can get from time to time, and eternally press forward for what is yet to get. It takes time to persuade men to do even what is for their own good. Wishing you every prosperity in this & in all your other undertakings (for I am sure, from my knowlege of you they will always be just) I am with sincere esteem & respect Dear Sir your friend & servant.

TO THE PRESIDENT OF THE UNITED STATES J. MSS.

MONTICELLO, Feb 14. 1790.

SIR,—I have duly received the letter of the 21st of January with which you have honored me, and no longer hesitate to undertake the office to which you are pleased to call me. Your desire that I

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should come on as quickly as possible is a sufficient reason for me to postpone every matter of business, however pressing, which admits postponement. Still it will be the close of the ensuing week before I can get away, & then I shall have to go by the way of Richmond, which will lengthen my road. I shall not fail however to go on with all the despatch possible nor to satisfy you, I hope, when I shall have the honor of seeing you in New York, that the circumstances which prevent my immediate departure, are not under my controul. I have now that of being with sentiments of the most perfect respect & attachment, Sir, Your most obedient & most humble servant.

TO JOHN JAY J. MSS.

MONTICELLO, February 14, 1790.

DEAR SIR,—I am honored with your favor of December 12, and thank you for your friendly congratulations on my return to my native country, as well as for the interest you are pleased to express in the appointment with which I have been honored. I have thought it my duty to undertake it, though with no prepossessions in favor of my talents for executing it to the satisfaction of the public. With respect to the young gentlemen in the office of foreign affairs, their possession and your recommendation are the strongest titles. But I suppose the ordinance establishing my office, allows but one assistant; and I should be wanting in candor to you and them, were I not to tell you that another candidate

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has been proposed to me, on ground that cannot but command respect. I know neither him nor them, and my hope is, that, as but one can be named, the object is too small to occasion either mortification or disappointment to either. I am sure I shall feel more pain at not being able to avail myself of the assistance but of one of the gentlemen, than they will at the betaking themselves to some better pursuit. I ask it of your friendship, my dear Sir, to make them sensible of my situation, and to accept yourself assurances of the sincere esteem and respect with which I have the honor to be, dear Sir, your most obedient, and most humble servant.

TO NICHOLAS AND JACOB VAN STAPHORST AND HUBBARD

J. MSS.

MONTICELLO IN VIRGINIA Feb. 28. 1790.

GENTLEMEN,—I have written to you in date May 27. Sep. 8 & Jan. 31 last past inclosing several remittances for Mr. Mazzei and one for myself by triplicates, to which I refer you.

If there be any indiscretion in the application I am now about to make to you, ascribe it to the sentiments of friendship and confidence with which your conduct has inspired me, & which I had wished to make reciprocal, and freely decline it if inconsistent with your conscience, assuring yourselves it will not in the least alter my dispositions to esteem & serve you. These can merit respect no longer than they are disinterested. I will be short in my explanations. After an absence of ten years from my estate I found

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it much deteriorated & requiring time & advances to bring it back again to the productive state of which it was susceptible. But I am only a farmer and have no resource but the productions of the farms themselves to bring them into a state of profit. If their profits be small their restoration will be slow in proportion. An advance of from one to two thousand dollars would produce a state of productiveness which, without it, will be tardy. My estate is a large one for the Country, to wit, upwards of ten thousand acres of valuable land on the navigable parts of James river and two hundred negroes and not a shilling out of it is or ever was under any incumbrance for debt. I may be excused in mentioning this as it is a proper ground whereon to ask you whether you would be willing to answer my draughts to any & what amount within the bounds before mentioned? I ask it of nobody in this country because Capitals here are small and employed in more active business than simple loans. I will send you my *bond* for the money payable at what time or times you please. This by the laws of this state, the same in this respect as those of England, will render my lands as well as my personality responsible for the debt, in case of my death. The interest, say six per cent, shall be remitted annually, with perfect punctuality tho' it would be more convenient to pay it to your agent here, as in my inland situation it is difficult to invest money in good bills. Perhaps it would be more convenient to you that your agent here should furnish the money. At any rate it would be advantageous in the sale of my bills

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that he should endorse them.—I repeat it again that I do not mean to lay you under any restraint by this application, but shall be better pleased with your doing on it what best pleases yourselves, only making it known to me as soon as convenient. In every event I shall preserve for you, and your interest, the sentiments of esteem & respect with which I am Gentlemen Your friend & humble servt.

TO THE MAYOR OF ALEXANDRIA [1] J. MSS.
(WILLIAM HUNTER)

ALEXANDRIA, Mar. 11, 1790.

SIR,—Accept my sincere thanks for yourself and the worthy citizens of Alexandria, for their kind congratulations on my return to my native country.

I am happy to learn that they have felt a benefit from the encouragements to our commerce which have been given by an allied nation. But truth & candor oblige me at the same time to declare you are indebted for these encouragements solely to the friendly dispositions of that nation which has shown itself ready on every occasion to adopt all arrangements which might strengthen our ties of mutual interest and friendship.

Convinced that the republican is the only form of government which is not eternally at open or secret war with the rights of mankind, my prayers & efforts shall be cordially distributed to the support of that we have so happily established. It is indeed

[1] In reply to an address presented to Jefferson while on his way to New York.

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an animating thought that, while we are securing the rights of ourselves & our posterity, we are pointing out the way to struggling nations who wish, like us, to emerge from their tyrannies also. Heaven help their struggles, and lead them, as it has done us, triumphantly thro' them.

Accept, Sir, for yourself and the citizens of Alexandria, the homage of my thanks for their civilities, & the assurance of those sentiments of respect & attachment with which I have the honor to be, Sir, your most obedient and most humble servant.

TO WILLIAM SHORT [1]

ALEXANDRIA, March 12, 1790.

DEAR SIR,— * * * I have received my letters from New York very regularly every week by post. I now, therefore, am at about the 7th of October, 1789, as to what has been passing in Europe; that is to say, I know no one circumstance later than the King's removal to Paris. I will complain not only of your not writing, but of your writing so illegibly, that I am half a day decyphering one page, and then guess at much of it. * * * I wrote on what footing I had placed the President's proposal to me to undertake the office of Secretary of State. His answer still left me at liberty to accept it or return to France; but I saw plainly he preferred the former, and have learned from several quarters it will be generally more agreeable.

[1] From the *Southern Bivouac*, ii., 430.

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Consequently, to have gone back would have exposed me to the danger of giving disgust, and I value no office enough for that. I am, therefore, now on my way to enter on the new office. Not a word has been said about my successor; but on that subject you shall hear from me as soon as I arrive in New York. * * *

TO THOMAS MANN RANDOLPH[1] J. MSS.

NEW YORK, Mar 28. 1790.

DEAR SIR,—I arrived here on the 21st inst, after as laborious a journey of a fortnight from Richmond as I ever went through; resting only one day at Alexandria and another at Baltimore. I found my carriage & horses at Alexandria, but a snow of 18 inches deep falling the same night, I saw the impossibility of getting on in my own carriage, so left it there to be sent to me by water, and had my horses led on to this place, taking my passage on the stage, tho' relieving myself a little sometimes by mounting my horse. The roads thro' the whole were so bad that we could never go more than three miles an hour, sometimes not more than two, and in the night but one. My first object was to look out a house in the Broadway if possible, as being the center of my business. Finding none there vacant for the present, I have taken a small one in Maiden lane, which may give me time to look about me. Much business had been put by for my arrival, so

[1] Now his son-in-law, having married Martha Jefferson at Monticello on February 28, 1790.

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that I found myself all at once involved under an accumulation of it. When this shall be got thro' I may be able to judge whether the ordinary business of my department will leave me any leisure. I fear there will be little. Letters from Paris to the 25th of December inform us that the revolution there was still advancing with a steady pace. There had been two riots since my departure. The one on the 5th & 6th of October, which occasioned the royal family to remove to Paris, in which 9 or 10 of the Gardes du corps fell, and among these a Chevalier de Varicourt brother of Made de la Villatte & of Mademlle Varicourt, Patsey's friend. The second was on the 21st of the same month in which a baker had been hung by the mob. On this occasion, the government (*i. e.* the National assembly) proclaimed martial law in Paris and had two of the ringleaders of the mob seized, tried & hung, which was effected without any movement on the part of the people. Others were still to be tried. The troubles in Brabant become serious. The insurgents have routed the regular troops in every rencounter.

Congress is principally occupied by the Treasury report. The assumption of the state debts has been voted affirmatively in the first instance; but it is not certain it will hold it's ground thro' all the stages of the bill when it shall be brought in. I have recommended Mr. D. R. to the president for the office he desired, in case of a vacancy. It seemed however as if the President had had no intimation before that a vacancy was expected. I shall not fail to render in this every service in my power to your friend. I

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inclose to Patsey a letter from I do not know whence. Mrs. Trist complains of her, so does Miss Rittenhouse; & so will, I fear her friends beyond the Atlantic. Be so good as to assure her and Marie of my tender affections. I shall be happy to hear from you frequently as you can do me the favor to write to me. No body has your health & happiness more at heart, nor wishes more a place in your esteem. I am my dear Sir, with compliments to Col^{o} Randolph Yours affectionately.

OPINION ON COMMUNICATIONS TO CONGRESS J. MSS.

[April 1, 1790.]

Th: Jefferson has the honor to inform the President that Mr. Madison has just delivered to him the result of his reflections on the question *How shall communications from the several states to Congress through the channel of the President be made?*

'He thinks that in no case would it be proper to go by way of *letter from the Secretary of State:* that they should be delivered to the Houses either by the Secretary of State in person or by Mr. Lear. He supposes a useful division of the office might be made between these two, by employing the one where a matter of fact alone is to be communicated, or a paper delivered in the ordinary course of things and where nothing is required by the President; and using the Agency of the other where the President chuses to recommend any measure to the legislature and to attract their attention to it.'

The President will be pleased to order in this

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what he thinks best. T. Jefferson supposes that whatever may be done for the present, the final arrangement of business should be considered as open to alteration hereafter. The government is yet so young that cases enough have not occurred to enable a division of them into classes, and the distribution of these classes to the persons whose agency would be the properest.

He sends some letters for the President's perusal praying him to alter freely any thing in them which he thinks may need it.

TO THE MARQUIS DE LAFAYETTE J. MSS.

NEW YORK, April 2. 1790.

Behold me, my dear friend, elected Secretary of State, instead of returning to the far more agreeable position which placed me in the daily participation of your friendship. I found the appointment in the newspapers the day of my arrival in Virginia. I had indeed been asked while in France whether I would accept of any appointment at home, & I had answered that without meaning to remain long where I was, I meant it to be the last office I should ever act in. Unfortunately this letter had not arrived at the time of arranging the new government. I expressed freely to the President my desire to return. He left me free, but still shewing his own desire. This, and the concern of others, more general than I had a right to expect, induced me after 3 months parleying, to sacrifice my own inclinations. I have been here then ten days harnessed in new

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geer. Wherever I am, or ever shall be, I shall be sincere in my friendship to you and to your nation. I think, with others, that nations are to be governed according to their own interest; but I am convinced that it is their interest, in the long run, to be grateful, faithful to their engagements even in the worst of circumstances, and honorable and generous always. If I had not known that the head of our government was in these sentiments, and that his national & private ethics were the same, I would never have been where I am. I am sorry to tell you his health is less firm than it used to be. However there is nothing in it to give alarm. The opposition to our new constitution has almost totally disappeared. Some few indeed had gone such lengths in their declarations of hostility that they feel it awkward perhaps to come over; but the amendments proposed by Congress, have brought over almost all their followers. If the President can be preserved a few years till habits of authority & obedience can be established, generally, we have nothing to fear. The little vautrien, Rhode island will come over with a little more time. Our last news from Paris is of the 8th of January. So far it seemed that your revolution had got along with a steady pace; meeting indeed occasional difficulties & dangers, but we are not to expect to be translated from despotism to liberty in a feather-bed. I have never feared for the ultimate result, tho' I have feared for you personally. Indeed I hope you will never see such another 5th & 6th of October. Take care of yourself, my dear friend, for tho' I think your

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nation would in any event work out her salvation, I am persuaded were she to lose you, it would cost her oceans of blood, & years of confusion & anarchy. Kiss & bless your dear children for me. Learn them to be as you are a cement between our two nations. I write to Madame de la fayette so have only to add assurances of the respect & esteem of your affectionate friend & humble servant.

TO MADAME LA DUCHESSE D'AUVILLE J. MSS.

NEW YORK, April 2. 1790.

I had hoped, Madame la Duchesse, to have again had the honor of paying my respects to you in Paris, but the wish of our government that I should take a share in its administration, has become a law to me. Could I have persuaded myself that public offices were made for private convenience, I should undoubtedly have preferred a continuance in that which placed me nearer to you; but believing on the contrary that a good citizen should take his stand where the public authority marshals him, I have acquiesced. Among the circumstances which reconcile me to my new position the most powerful is the opportunities it will give me of cementing the friendship between our two nations. Be assured that to do this is the first wish of my heart. I have but one system of ethics for men & for nations—to be grateful, to be faithful to all engagements and under all circumstances, to be open & generous, promotes in the long run even the interests of both;

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and I am sure it promotes their happiness. The change in your government will approximate us to one another. You have had some checks, some horrors since I left you; but the way to heaven, you know, has always been said to be strewed with thorns. Why your nation have had fewer than any other on earth, I do not know, unless it be that it is the best on earth. If I assure you, Madam, moreover, that I consider yourself personally as with the foremost of your nation in every virtue, it is not flattery, my heart knows not that, it is a homage to sacred truth, it is a tribute I pay with cordiality to a character in which I saw but one error; it was that of treating me with a degree of favor I did not merit. Be assured I shall ever retain a lively sense of all your goodness to me, which was a circumstance of principal happiness to me during my stay in Paris. I hope that by this time you have seen that my prognostications of a successful issue to your revolution have been verified. I feared for you during a short interval; but after the declaration of the army, tho' there might be episodes of distress, the denoument was out of doubt. Heaven send that the glorious example of your country may be but the beginning of the history of European liberty, and that you may live many years in health & happiness to see at length that heaven did not make man in it's wrath. Accept the homage of those sentiments of sincere and respectful esteem with which I have the honor to be, Madame la Duchesse, your most affectionate & obedient humble servant.

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TO THE U. S. CHARGÉ D'AFFAIRES IN SPAIN J. MSS.
(WILLIAM CARMICHAEL)

NEW YORK, April 11, 1790.

SIR,—A vessel being about to sail from this port for Cadiz, I avail myself of it to inform you, that under the appointment of the President of the United States, I have entered on the duties of Secretary of State, comprehending the department of Foreign Affairs.

Mr. Jay's letter of October the 2d, acknowledged the receipt of the last of yours which have come to hand. Since that date he wrote you on the 7th of December, enclosing a letter for Mr. Chiappe.

The receipt of his letter of September the 9th, 1788, having never been acknowledged, the contents of which were important and an answer wished for, I send you herewith a duplicate, lest it should have miscarried.

You will also receive herewith, a letter of credence for yourself, to be delivered to the Count de Florida Blanca, after putting thereon the proper address, with which I am unacquainted. A copy of it is enclosed for your information.

I beg leave to recommend the case of Don Blas Gonzalez to your good offices with the court of Spain, enclosing you the documents necessary for its illustration. You will perceive, that two vessels were sent from Boston in the year 1787, on a voyage of discovery and commercial experiment in general, but more particularly to try a fur trade with the Russian settlements, on the northwest coast of our continent, of which such wonders had been published in Captain

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Cook's voyages, that it excited similar expeditions from other countries also; and that the American vessels were expressly forbidden to touch at any Spanish port, but in cases of extreme distress. Accordingly, through the whole of their voyage through the extensive latitudes held by that crown, they never put into any port but in a single instance. In passing near the island of Juan Fernandez, one of them was damaged by a storm, her rudder broken, her masts disabled, and herself separated from her companion. She put into the island to refit, and at the same time, to wood and water, of which she began to be in want. Don Blas Gonzalez, after examining her, and finding she had nothing on board but provisions and charts and that her distress was real, permitted her to stay a few days, to refit and take in fresh supplies of wood and water. For this act of common hospitality, he was immediately deprived of his government, unheard, by superior order, and remains still under disgrace. We pretend not to know the regulations of the Spanish government, as to the admission of foreign vessels into the ports of their colonies; but the generous character of the nation is a security to us, that their regulations can, in no instance, run counter to the laws of nature; and among the first of her laws, is that which bids us to succor those in distress. For an obedience to this law, Don Blas appears to have suffered; and we are satisfied, it is because his case has not been able to penetrate to his Majesty's ministers, at least in its true colors. We would not choose to be committed by a formal solicitation, but we would wish you to

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avail yourself of any good opportunity of introducing the truth to the ear of the minister, and of satisfying him, that a redress of this hardship on the Governor, would be received here with pleasure, as a proof of respect to those laws of hospitality which we would certainly observe in a like case, as a mark of attention towards us, and of justice to an individual for whose sufferings we cannot but feel.

With the present letter, you will receive the public and other papers, as usual, and I shall thank you in return, for a regular communication of the best gazettes published in Madrid.

TO FRANCIS WILLIS J. MSS.

NEW YORK, April 13, 1790.

MY DEAR FRIEND,—Your favor of Feb. 10. came to me here a few days ago. Nothing would have made me happier than to have been able to see you on my way through the lower part of Virginia, but the short time destined for my stay in that country did not permit me to turn to the right or left. Your recommendation of Mr. Reynolds would have given me all the dispositions possible to have found a place for him. But in the office to which I have been called, all was full, and I could not in any case think it just to turn out those in possession who have behaved well, merely to put others in. I have not therefore had a single appointment to make: nor is there any thing within my appointment but mere copying clerks at 500 dollars a year & two at 800.—

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I fear there is as little prospect that any office can occur in Williamsburg. I know of none but in the law line which was never your favorite line. I can therefore only express to you my wishes to serve you. You complain of the difficulties which have strowed the path of life for you. Be assured, my friend, that mine has not been strowed with flowers. The happiest moments of my life have been the few which I have past at home in the bosom of my family. Emploiment any where else is a mere [*illegible*] of time; it is burning the candle of life in perfect waste for the individual himself. I have no complaint against any body. I have had more of the confidence of my country than my share. I only say that public emploiment contributes neither to advantage nor happiness. It is but honorable exile from one's family & affairs. I wish you every possible felicity to yourself, Mrs. Willis & your family, and am with great sincerity dear Sir your affectionate friend & servt.

TO THOMAS MANN RANDOLPH J. MSS.

NEW YORK April 18. 1790.

DEAR SIR,—I wrote you on the 28th of March, to Patsy on the 4th of April, & to Polly on the 11th. I now inclose a letter for Patsy, which being delivered me by Sr. John Temple, I presume comes from one of her friends the lady Tufton. The best channel for sending an answer will be to send it thro me, Sr. J. Temple & the D. of Leed's office. Letters & papers to the 5th of Feb. from France, shew that

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they were going on well there. The Belgic revolution has received two small checks, one on the 1st. of Jan. when the whole Belgic army was panic struck & ran before a man had fallen: the 2d on the 13th of Jan. when they were defeated with the loss of about 300 men. Van Murren commanded in both cases. The news of the death of the Emperor, which the English newspapers gave us, was not true. But I know that it may be daily & hourly expected.—Here the public has been a good deal agitated with the question in Congress on the assumption of the state debts. The first decision has been not to assume by a majority of 31. to 28. It will still be brought on in another form. It appears to me one of those questions which present great inconveniences whichever way it is decided: so that it offers only a choice of evils.—In the way of small news we have the marriage of Mr. Page with a Miss Louther, & the death of judge Harrison of Maryland. Mad judge Bedford of Delaware the other day wounded dangerously his wife & killed her adulterer with the same shot.—We have had here a series of as disagreeable weather as I have seen. It is now raining and snowing most furiously, & has been doing so all night. As soon as I get into the house I have hired, which will be the 1st. of May, I will propose to you to keep a diary of the weather here & wherever you shall be, exchanging observations from time to time. I should like to compare the two climates by cotemporary observations. My method is to make two observations a day, the one as early as possible in the morning, the other from 3. to 4. o clock, because I have found 4 o clock the

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hottest & day light the coldest point of the 24. hours. I state them in an ivory pocket book in the following form & copy them out once a week.

1790.	Monticello.				
Feb.	Morning.		Afternoon.		Miscellaneous.
1	39	c	—	far	
2	46	r		c	
3	29	c	31	c	
4	—	carhs	—	far	
5	30	f	—	c	
6	25	f	30	s	
7	54	f	—	f	
8	42	f	43	c	

The 1st column is the day of the month & 2d the thermometer in the morning. The 4th do. in the evening. The 3d the weather in the morning. The 5th do. in the afternoon. The 6th is for miscellanies, such as the appearance of birds, leafing & flowering of trees, frosts remarkably late or early, Aurora borealis, &c. In the 3d & 5th columns, a. is *after:* c, cloudy: f, fair: h: hail: r rain; s, snow. Thus c a r h s, means, *cloudy after rain, hail & snow:* whenever it has rained, hailed or snowed between two observations I wrote it thus, f a r (i. e. fair afternoon) c a s (cloudy after snow) &c. Otherwise the falling weather would escape notation. I distinguish weather into fair or cloudy, according as the sky is more or less than half covered with clouds. I observe these things to you, because in order that our observations may present a full comparison of the two climates, they should be kept on the same plan.

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I have no barometer here & was without one at Paris. Still if you chuse to take barometrical observations you can insert a 3d. morning column and a 3d. afternoon column.

My most friendly respects to Colo. Randolph, and my love to Patty & Polly, and believe me to be sincerely & affectionately Your's.

P. S. I spoke again with ———[1] on the subject of Mr. D. Randolph a few days ago. He still knows nothing of H.'s intention to resign, & he never promises any thing. But he said as much as he could, short of a promise, and I believe you may assure Mr. Randolph that in such an event he will probably have the appointment. But do not let a word of this, transpire beyond him.

OPINION ON THE POWERS OF THE SENATE J. MSS.

[April 24, 1790.]

Opinion on the Question whether the Senate has the right to negative the grade of persons appointed by the Executive to fill Foreign Missions.

The constitution having declared, that the president "shall nominate, and by and with the advice and consent of the senate shall appoint, ambassadors, other public ministers, and consuls," the president desires my opinion whether the senate has a right to negative the grade he may think it expedient to use in a foreign mission, as well as the person to be appointed.

[1] The President. See *ante*, page 37.

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I think the senate has no right to negative the grade.

The constitution has divided the powers of government into three branches, legislative, executive, and judiciary, lodging each with a distant magistracy. The legislative it has given completely to the senate and house of representatives; it has declared that "the executive powers shall be vested in the president," submitting only special articles of it to a negative by the senate; and it has vested the judiciary power in the courts of justice, with certain exceptions also in favor of the senate.

The transaction of business with foreign nations is executive altogether; it belongs, then, to the head of that department, except as to such portions of it as are specially submitted to the senate. Exceptions are to be construed strictly; the constitution itself, indeed, has taken care to circumscribe this one within very strict limits; for it gives the nomination of the foreign agent to the president, the appointment to him and the senate jointly, and the commissioning to the president.

This analysis calls our attention to the strict import of each term. To nominate must be to propose; appointment seems the only act of the will which constitutes or makes the agent; and the commission is the public evidence of it. But there are still other acts previous to these, not specially enumerated in the constitution, — to wit, 1. The destination of a mission to the particular country where the public service calls for it, and, 2. The character or grade to be employed in it. The natural order of

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all these is, 1. destination, 2. grade, 3. nomination, 4. appointment, 5. commission. If appointment does not comprehend the neighboring acts of nomination or commission, (and the constitution says it shall not, by giving them exclusively to the president) still less can it pretend to comprehend those previous and more remote of destination and grade. The constitution, analyzing the three last, shows they do not comprehend the two first. The fourth is the only one it submits to the senate, shaping it into a right to say that "A or B is unfit to be appointed." Now, this cannot comprehend a right to say that "A or B is indeed fit to be appointed, but the grade fixed on it is not the fit one to employ," or "our connections with the country of his destination are not such as to call for any mission." The senate is not supposed by the constitution to be acquainted with the concerns of the executive department. It was not intended that these should be communicated to them; nor can they, therefore, be qualified to judge of the necessity which calls for a mission to any particular place, or of the particular grade, more or less marked, which special and secret circumstances may call for. All this is left to the president; they are only to see that no unfit person be employed.

It may be objected, that the senate may, by continual negatives on the person, do what amounts to a negative on the grade, and so indirectly defeat this right of the president; but this would be a breach of trust, an abuse of the power confided to the senate, of which that body cannot be supposed capable. So, the president has a power to convoke

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the legislature, and the senate might defeat that power, by refusing to come. This equally amounts to a negative on the power of convoking, yet nobody will say they possess such a negative, or would be capable of usurping it by such oblique means. If the constitution had meant to give the senate a negative on the grade or destination, as well as the person, it would have said so in direct terms, and not left it to be effected by a sidewind. It could never mean to give them the use of one power through the abuse of another.

TO COLONEL HENRY LEE J. MSS.

NEW YORK April 26. 1790.

DEAR SIR,—I am honored with your favor of the 3d. instant, and would have been happy to be useful to Mr. Lee had there been any opening, as I should be hereafter were any to occur. There are no offices in my gift but of meer [*sic*] scribes in the office room at 800. & 500. Dollars a year. These I found all filled & of long possession in the hands of those who held them, and I thought it would not be just to remove persons in possession, who had behaved well, to make place for others. There was a single vacancy, only, & that required to be filled up with a regard to the elegance of hand-writing only, because it was to continue the record of the Acts of Congress which had been begun in a hand remarkably fine. I am sensible of the necessity as well as justice of dispersing emploiments over the whole of the U. S. But this is difficult as to the smaller

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offices, which require to be filled immediately as they become vacant & are not worth coming for from the distant states. Hence they will unavoidably get into the sole occupation of the vicinities of the seat of government. A reason the more for removing that seat to the true center.

The question of Assumption still occupies Congress. The partisans of both sides of it are nearly equally divided, & both extremely eager to carry their point. It will probably be sometime before it is ultimately decided. In the mean while the voice of the nation will perhaps, be heard. Unluckily it is one of those cases wherein the voice will be all on one side, & therefore likely to induce a false opinion of the real wish of the public. What would be the fate of this question in the Senate is yet unknown.

TO WILLIAM SHORT[1] J. MSS.

NEW YORK April 27. 1790.

DEAR SIR,— * * * J. Walker is appointed Senator in the room of Grayson, & arrived here with his family yesterday. It was carried in his favor against Monroe by a Majority of a single vote in council. Many think he may be dropped by the assembly. In my preceding letters I did not mention to whom you should address such of my things as are to go directly to Virginia. To Capt. Maxwell at Norfolk if you please, or Mr. James Brown Merch[t] at Richmond, according to the destination of the

[1] Italic is cipher in original.

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vessel. On conversing with Mr. Hamilton yesterday, I find that the funds in the hands of the W. W. V. Stap. & Hub. are exhausted. Should the joint houses therefore make any difficulties about answering your bills for my purposes, I think the latter one will not: be so good as to assure them (in case it comes to that) that their advances for me shall be reimbursed as soon as made known. * * *

The management of the foreign establishment awaits the passage of a bill on the subject. One conversation only has taken place, but no resolutions reached are discernible. A minister will certainly be appointed, and from among the veterans on the public stage, if I may judge from the names mentioned. I will write you the moment I know it myself. I would advise you to pass some time in London in as high a circle as you can before you come over, in order to add the better knowledge of the country to your qualifications for future office.

We have London news to March 26. Paris news only to Feb. 10. Your note with a packet from Miss Botidour for my daughter is come to hand. You will see in the newspapers which accompany this, the details of Dr. Franklin's death. The house of representatives resolved to wear mourning & do it. The Senate neither resolved it nor do it.—What is become of Rumsey & his steam-ship? Not a word is known here. I fear therefore he has failed. Adieu, my dear Sir, and believe me to be Your affectionate friend & servt.

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OPINION ON GEORGIAN LAND GRANTS [1]

[May 3d, 1790.]

Opinion upon the validity of a grant made by the State of Georgia to certain companies of individuals, of a tract of country whereof the Indian right had never been extinguished, with power to such individuals to extinguish the Indian right.

The State of Georgia, having granted to certain individuals a tract of country, within their chartered limits, whereof the Indian right has never yet been acquired; with a proviso in the grants, which implies that those individuals may take measures for extinquishing the Indian rights under the authority of that Government, it becomes a question how far this grant is good?

A society, taking possession of a vacant country, and declaring they mean to occupy it, does thereby appropriate to themselves as prime occupants what was before common. A practice introduced since the discovery of America, authorized them to go further, and to affix the limits which they assume to themselves; and it seems, for the common good, to admit this right to a moderate and reasonable extent.

If the country, instead of being altogether vacant, is thinly occupied by another nation, the right of the native forms an exception to that of the new comers; that is to say, these will only have a right against all other nations except the natives. Consequently, they have the exclusive privilege of acquiring the native right by purchase or other just means. This

[1] This relates to the beginning of the "Yazoo" imbroglio.

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is called the right of pre-emption, and is become a principle of the law of nations, fundamental with respect to America. There are but two means of acquiring the native title. First, war; for even war may, sometimes, give a just title. Second, contracts or treaty.

The States of America before their present union possessed completely, each within its own limits, the exclusive right to use these two means of acquiring the native title, and, by their act of union, they have as completely ceded both to the general government. Art. 2d, Section 1st, "The President shall have power, by and with the advice of the Senate, to make treaties, provided two thirds of the Senators present concur." Art. 1st, Section 8th, "The Congress shall have power to declare war, to raise and support armies." Section 10th, "No State shall enter into a treaty, alliance or confederation. No State shall, without the consent of Congress, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay."

These paragraphs of the constitution, declaring that the general government shall have, and that the particular ones shall not have, the right of war and treaty, are so explicit that no commentary can explain them further, nor can any explain them away. Consequently, Georgia, *possessing the exclusive right to acquire the native title*, but having relinquished the *means* of doing it to the general government, can only have put her grantee into her

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own condition. She could convey to them the exclusive right to acquire; but she could not convey what she had not herself, that is, the means of acquiring.

For these they must come to the general government, in whose hands they have been wisely deposited for the purposes both of peace and justice.

What is to be done? The right of the general government is, in my opinion, to be maintained. The case is sound, and the means of doing it as practicable as can ever occur. But respect and friendship should, I think, mark the conduct of the general towards the particular government, and explanations should be asked and time and color given them to tread back their steps before coercion is held up to their view. I am told there is already a strong party in Georgia opposed to the act of their government.

I should think it better then that the first measures, while firm, be yet so temperate as to secure their alliance and aid to the general government.

Might not the eclat of a proclamation revolt their pride and passion, and throw them hastily into the opposite scale? It will be proper indeed to require from the government of Georgia, in the first moment, that while the general government shall be expecting and considering her explanations, things shall remain in statu quo, and not a move be made towards carrying what they have begun into execution.

Perhaps it might not be superfluous to send some person to the Indians interested, to explain to them the views of government, and to watch with their aid the territory in question.

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TO WILLIAM SHORT J. MSS.

NEW YORK May 27. 1790.

DEAR SIR,—A periodical headache has put it out of my power for near a month to attend to any business, or correspondence public or private and such is my present situation that, favorable as the opportunity is by Mr. Crevecœur, I had not meant to venture to write to you. But the receipt of yours of Mar. 25. has decided me to try it. * * * I should not write to you again till I should emerge. I mentioned too the footing on which stood the proposal for my translation to a new office. It was not till the middle of February that a second letter from the President determined me to accept it: and I left Monticello in a fortnight after for New York. At Alexandria friday a vessel bound for France I wrote to you to wit Mar. 12. Of this letter I have sent triplicates. Since my arrival here I have written Mar. 28. Apr. 6. 7. 27. 30. sending duplicates & triplicates of some of them. The day after the date of the last, I was taken with the illness which still confines me. In the mean time we have been here near losing the President. He was taken with a peripneumony and on the 5th day he was pronounced by two of the three physicians present to be in the act of death. A successful effort of nature however relieved him & us. You cannot conceive the public alarm on this occasion. It proves how much depends on his life. No successor at Paris is yet named: nor is any other mission on the carpet. I wish that while you stay you could obtain the free introduction of our salted provisions into France.

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Nothing would be so generally pleasing from the Chesapeek to New Hampshire. You will see in the newspapers a bill for increasing the tonnage of nations *not in Treaty with us* to a given time & then prohibiting their transporting our commodities. This I think will pass. In the house of representatives there is a great majority for it. The hope I have held out of obtaining the introduction of our salted provisions into France, has been an efficacious incitement to this bill. A motion is now before the Senate for having the next meeting of Congress at Philadelphia: & it is rather possible it will be carried in both houses. In that case we shall remove to Philadelphia about the 1st of September. I wish it may be decided in time for me to give you notice so that Petit & my baggage may come directly to Philadelphia.

With respect to the loss of your money by Nomeny I do not apprehend there can be any difficulty. Only take care and establish on the best testimony the case will admit, how much of it was to be paid for public purposes, & how much was for your private use. This being done, I suppose the principles to be well established in law which will make the first a public, & the latter your private loss. It cannot be brought on till the settlement of your account, & then it will be decided on, not only by Congress, but the regular judge in that department.

You will see by the Virginia papers that Colo. Dudley Digges is dead: that Mr. Henry is elected contrary to what has been said of his retiring &c. &c. for these papers which I will regularly send you will

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convey to you all the small news I know. Madison of the College is coming here to be made a bishop. Send me if you please the records of the Bastile which they had begun to publish. I send by Mr. Crevecœur my alarm watch to be mended. There is a paper of explanation with it. I send also by him about ½ doz. lb of *Balsanum Canadensa* for M. Deville, which be pleased to ask his acceptance of from me, & apologize from my sickness for my not writing. I wish, if it be practicable, that you could make all the paiments of rent for my house since my departure, enter into Mr. Grand's accounts, so that I may have no occasion to place them in mine at all. Press the affairs of the Algerine redemption and write its progress continually. Present me to all my friends as if they were here named, and be assured of the constant esteem & attachment of Dear Sir your sincere & affectionate friend.

P. S. May 28. Last night I received your letters to me of Jan. 28. & Feb. 10. & to Mr. Jay of Jan. 23. & Feb. 10. They had arrived at Baltimore, gone to Mr. Jay at Portsmouth in New Hampshire, & returned here. The Packet being to sail tomorrow I doubt the possibility of sending you the two copies of the Federalist *bound*. If it cannot be done now, it shall be by another opportunity. The motion for removal to Philadelphia has been evaded in the Senate and withdrawn. It is now moved in the other house. But probability is now rather against it's success. The President is well enough to resume business.

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TO THOMAS MANN RANDOLPH J. MSS.

NEW YORK, May 30, 1790.

DEAR SIR,—I at length find myself, tho not quite well, yet sufficiently so to resume business in a moderate degree. I have therefore to answer your two favors of Apr 23 & May 3, and in the first place to thank you for your attention to the Paccan, Glouces-ter & European walnuts which will be great acquisitions at Monticello. I will still ask your attention to Mr. Foster's boring machine, lest he should go away suddenly, & so the opportunity of getting it be lost.—I enquired of Mr. Hamilton the quantity of coal imported; but he tells me there are not returns as yet sufficient to ascertain it; but as soon as there shall be I shall be informed. I am told there is a considerable prejudice against our coal in these Northern states. I do not know whence it proceeds: perhaps from the want of attention to the different species, and an ignorant application of them to cross-purposes. I have not begun my meteorological diary; because I have not yet removed to the house I have taken. I remove tomorrow: but as far as I can judge from it's aspects there will not be one position to be had for the thermometer free from the influence of the sun both morning & evening. However, as I go into it, only till I can get a better, I shall hope ere long to find a less objectionable situation. You know that during my short stay at Monticello I kept a diary of the weather. Mr. Madison has just received one, comprehending the same period, kept at his father's in Orange. The hours of observation were the same,

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and he has the fullest confidence in the accuracy of the observer. All the morning observations in Orange are lower than those of Monticello, from one to, I believe, 15 or 16 degrees: the afternoon observations are near as much higher than those of Monticello. Nor will the variations permit us to ascribe them to any supposed irregularities in either tube, because, in that case, at the same point the variations would always be the same, which it is not. You have often been sensible that in the afternoon, or rather evening, the air has become warmer in ascending the mountain. The same is true in the morning. This might account for a higher station of the mercury in the morning observations at Monticello. Again when the air is equally dry in the lower & higher situations, which may be supposed the case in the warmest part of the day, the mercury should be lower on the latter, because, all other circumstances the same, the nearer the common surface the warmer the air. So that on a mountain it ought really to be warmer in the morning & cooler in the heat of the day than on the common plain; but not in so great a degree as these observations indicate. As soon as I am well enough I intend to examine them more accurately.—Your resolution to apply to the study of the law is wise in my opinion, & at the same time to mix it with a good degree of attention to the farm. The one will relieve the other. The study of the law is useful in a variety of points of view. It qualifies a man to be useful to himself, to his neighbors, & to the public. It is the most certain stepping stone to preferment in the political line. In

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political economy I think Smith's *wealth of nations* the best book extant, in the science of government Montesquieu's *spirit of laws* is generally recommended. It contains indeed a great number of political truths; but also an equal number of heresies: so that the reader must be constantly on his guard. There has been lately published a letter of Helvetius who was the intimate friend of Montesquieu & whom he consulted before the publication of his book. Helvetius advised him not to publish it: & in this letter to a friend he gives us a solution for the mixture of truth & error found in this book. He sais Montesquieu was a man of immense reading, that he had commonplaced all his reading, & that his object was to throw the whole contents of his commonplace book into systematical order, & to shew his ingenuity by reconciling the contradictory facts it presented. Locke's little book on government is perfect as far as it goes. Descending from theory to practice there is no better book than the *Federalist*. Burgh's *Political disquisitions* are good also, especially after reading De Lolme. Several of Hume's political essays are good. There are some excellent books of Theory written by Turgot & the economists of France. For parliamentary knowlege, the *Lex parliamentaria* is the best book. —On my return to Virginia in the fall, I cannot help hoping some practicable plan may be devised for your settling in Albemarle, should your inclination lead you to it. Nothing could contribute so much to my happiness were it at the same time consistent with yours. You might get into the assembly

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for that county as soon as you should please. A motion has been made in the Senate to remove the federal government to Philadelphia. There was a trial of strength on a question for a week's postponement. On that it was found there would be 11 for the removal & 13 against it. The motion was therefore withdrawn & made in the other house where it is still depending, & of very incertain event.—The question of the assumption is again brought on. The parties were so nearly equal on the former trial that it is very possible that with some modifications it may yet prevail. The tonnage bill will probably pass, and must, I believe, produce salutary effects. It is a mark of energy in our government, in a case where I believe it cannot be parried. The French revolution still goes on well, tho the danger of a suspension of paiment is very imminent. Their appeal to the inhabitants of their colonies to say on what footing they wish to be placed, will end, I hope, in our free admission into their islands with our produce. This precedent must have consequences. It is impossible the world should continue long insensible to so evident a truth as that the right to have commerce & intercourse with our neighbors is a natural right. To suppress this neighborly intercourse is an exercise of force, which we shall have a just right to remove when the superior force.

Present my warm affections to the girls. I am afraid they do not follow my injunctions of answering by the first post the weekly letter I address to them. I inclose some letters for Patsy from Paris, and the newspapers for yourself with assurances of

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the sincere & cordial esteem of Dear Sir Your Affectionate friend.

P. S. I must refer the description of the Mould board to another occasion. The President is well enough to do business. Colo. Bland dangerously ill.

OPINION ON SOLDIERS' ACCOUNTS J. MSS.

[June 3d, 1790.]

Opinion in favor of the resolutions of May 21st, 1790, directing that, in all cases where payment had not been already made, the debts due to the soldiers of Virginia and North Carolina, should be paid to the original claimants or their attorneys, and not to their assignees.

The accounts of the soldiers of Virginia and North Carolina, having been examined by the proper officer of government, the balances due to each individual ascertained, and a list of these balances made out, this list became known to certain persons before the soldiers themselves had information of it, and those persons, by unfair means, as is said, and for very inadequate considerations, obtained assignments from many of the soldiers of whatever sum should be due to them from the public, without specifying the amount.

The legislature, to defeat this fraud, passed resolutions on the 21st of May, 1790, directing that where payment had not been made to the original claimant in person or his representatives, it shall

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be made to him or them personally, or to their attorney, producing a power for that purpose, attested by two justices of the county where he resides, and specifying the certain sum he is to receive.

It has been objected to these resolutions that they annul transfers of property which were good by the laws under which they were made; that they take from the assignees their lawful property; are contrary to the principles of the constitution, which condemn retrospective laws; and are, therefore, not worthy of the President's approbation.

I agree in an almost unlimited condemnation of retrospective laws. The few instances of wrong which they redress are so overweighed by the insecurity they draw over all property and even over life itself, and by the atrocious violations of both to which they lead that it is better to live under the evil than the remedy.

The only question I shall make is, whether these resolutions annul acts which were valid when they were done?

This question respects the laws of Virginia and North Carolina only. On the latter I am not qualified to decide, and therefore beg leave to confine myself to the former.

By the common law of England (adopted in Virginia) the conveyance of a right to a debt or other thing whereof the party is not in possession, is not only void, but severely punishable under the names of Maintenance and Champerty. The Law-merchants, however, which is permitted to have course between merchants, allows the assignment of a *bill*

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of exchange for the convenience of commerce. This, therefore, forms one exception to the general rule, that a mere right or thing in action is not assignable. A second exception has been formed by an English statute (copied into the laws of Virginia) permitting *promisory notes* to be assigned. The laws of Virginia have gone yet further than the statute, and have allowed, as a third exception, that a *bond* should be assigned, which cannot be done even at this day in England. So that, in Virginia, when a debt has been settled between the parties and put into the form of a bill of exchange, promisory note or bond, the law admits it to be transferred by assignment. In all other cases the assignment of a debt is void.

The debts from the United States to the soldiers of Virginia, not having been put into either of these forms, the assignments of them were void in law.

A creditor may give an order on his debtor in favor of another, but if the debtor does not accept it, he must be sued in the creditor's name; which shows that the *order* does not transfer the property of the debts. The creditor may appoint another to be his attorney to receive and recover his debt, and he may covenant that when received the attorney may apply it to his own use. But he must sue as attorney to the original proprietor, and not in his own right.

This proves that a *power of attorney*, with such a *covenant*, does not transfer the property of the debt. A further proof in both cases is, that the original creditor may at any time before payment or acceptance revoke either his order or his power of attorney.

In that event the person in whose favor they were

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given has recourse to a court of equity. If he finds his transaction has been a fair one, he gives him aid. If he finds it has been otherwise, not permitting his court to be made a handmaid to fraud, he leaves him without remedy in equity as he was in law. The assignments in the present case, therefore, if unfairly obtained, as seems to be admitted, are void in equity as they are in law. And they derive their nullity from the laws under which they were made, not from the new resolutions of Congress. These are not retrospective. They only direct their treasurer not to give validity to an assignment which had it not before, by payments to the assignee until he in whom the legal property still is, shall order it in such a form as to show he is apprized of the sum he is to part with, and its readiness to be paid into his or any other hands, and that he chooses, notwithstanding, to acquiesce under the fraud which has been practised on him. In that case he had only to execute before two justices a power of attorney to the same person, expressing the specific sum of his demand, and it is to be complied with. Actual payment, in this case, is an important act. If made to the assignee, it would put the burthen of proof and process on the original owner. If made to that owner, it puts it on the assignee, who must then come forward and show that his transaction has been that of an honest man.

Government seems to be doing in this what every individual, I think, would feel himself bound to do in the case of his own debt. For, being free in the law, to pay to one or the other, he would certainly

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give the advantage to the party who has suffered wrong rather than to him who has committed it.

It is not honorable to embrace a salutary principle of law when a relinquishment of it is solicited only to support a fraud.

I think the resolutions, therefore, merit approbation. I have before professed my incompetence to say what are the laws of North Carolina on this subject. They, like Virginia, adopted the English laws in the gross. These laws forbid in general the buying and selling of debts, and their policy in this is so wise that I presume they had not changed it till the contrary be shown.

TO WILLIAM SHORT J. MSS.

NEW YORK, June 6, 1790.

DEAR SIR,—Having written to you so lately as the 27th of May, by M. de Crevecœur, I have little new to communicate. My head-ach still continues in a slight degree, but I am able to do business. To-morrow I go on a sailing party of three or four days with the President. I am in hopes of being relieved entirely by the sickness I shall probably encounter. The President is perfectly reestablished, and looks better than before his illness. The question of removal to Philadelphia was carried in the house of representatives by 38. against 22. It is thought the Senate will be equally divided and consequently that the decision will rest on the Vice-president, who will be himself divided between his own decided inclinations to stay here, & the unpopularity of being the

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sole obstacle to what appears the wish of so great a majority of the people expressed by proportional representation. Rhode island has at length acceded to the Union by a majority of two voices only in their convention. Her Senators will be here in about 10 days or a fortnight. The opposers of removal in the Senate try to draw out time till their arrival. Therefore they have connected the resolution of the lower house with a bill originated with them to fix a permanent residence, & have referred both to the same committee.—Deaths are Colonel Bland at this place, and old Colo Corbin in Virginia. The naming a minister for Paris awaits the progress of a bill before the legislature. They will probably adjourn to the 1st of December, as soon as they have got through the money business. The funding bill is passed, by which the President is authorized to borrow money for transferring our foreign debt. But the ways & means bill being not yet passed, the loan cannot be commenced till the appropriations of revenue are made, which is to give credit to the loan. * * *

P. S. 1287. 1119. 490. 1648. 1268. 394. 1340. 564. 1165. 917. 294. 146. 187. 687. 586. 1416. 394. 1527. 1099. 360. 586. 1450. 656. 860. 1212. 626. [torn] 1369. 927. 1012. 224. 339. 1172. 426. 224. 1152. 1166. 1451. 1182.

TO JOHN GARLAND JEFFERSON[1]

J. MSS.

NEW YORK June 11. 1790.

DEAR SIR,—Your uncle mr Garland informs me, that, your education being finished, you are desirous

[1] The son of Jefferson's cousin, George Jefferson.

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of obtaining some clerkship or something else under government whereby you may turn your talents to some account for yourself and he had supposed it might be in my power to provide you with some such office. His commendations of you are such as to induce me to wish sincerely to be of service to you. But there is not, and has not been, a single vacant office at my disposal. Nor would I, as your friend, ever think of putting you into the petty clerkships in the several offices, where you would have to drudge through life for a miserable pittance, without a hope of bettering your situation. But he tells me you are also disposed to the study of the law. This therefore brings it more within my power to serve you. It will be necessary for you in that case to go and live somewhere in my neighborhood in Albemarle. The inclosed letter to Colo. Lewis near Charlottesville will show you what I have supposed could be best done for you there. It is a general practice to study the law in the office of some lawyer. This indeed gives to the student the advantage of his instruction. But I have ever seen that the services expected in return have been more than the instructions have been worth. All that is necessary for a student is access to a library, and directions in what order the books are to be read. This I will take the liberty of suggesting to you, observing previously that as other branches of science, and especially history, are necessary to form a lawyer, these must be carried on together. I will arrange the books to be read into three columns, and propose that you should read those in the first column till 12. oclock

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every day: those in the 2d. from 12. to 2. those in the 3d. after candlelight, leaving all the afternoon for exercise and recreation, which are as necessary as reading: I will rather say more necessary, because health is worth more than learning.

1st.	2d.	3d.
Coke on Littleton	Dalrymple's feudal system.	Mallet's North antiquit'.
Coke's 2d. 3d. & 4th. institutes.	Hale's history of the Com. law.	History of England in 3. vols folio compiled by Kennet.
Coke's reports.	Gilbert on Devises	
Vaughan's do	Uses.	
Salkeld's	Tenures.	Ludlow's memoirs
Ld. Raymond's	Rents	Burnet's history.
Strange's.	Distresses.	Ld. Orrery's history.
Burrows's	Ejectments.	Burke's George III.
Kaim's Principles of equity.	Executions.	Robertson's hist. of Scotl'd
Vernon's reports.	Evidence.	Robertson's hist. of America.
Peere Williams.	Sayer's law of costs.	Other American histories.
Precedents in Chancery.	Lambard's circonantia.	Voltaire's historical works.
Tracy Atheyns.	Bacon. voce Pleas & Pleadings	
Verey.	Cunningham's law of bills.	
Hawkin's Pleas of the crown.	Molloy de jure maritimo.	
Blackstone.	Locke on government.	
Virginia laws.	Montesquieu's Spirit of law.	
	Smith's wealth of nations.	
	Beccaria.	
	Kaim's moral essays.	
	Vattel's law of nations.	

Should there be any little intervals in the day not otherwise occupied fill them up by reading Lowthe's grammar, Blair's lectures on rhetoric, Mason on poetic & prosaic numbers, Bolingbroke's works for

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the sake of the stile, which is declamatory & elegant, the English poets for the sake of style also.

As mr Peter Carr in Goochland is engaged in a course of law reading, and has my books for that purpose, it will be necessary for you to go to mrs Carr's, and to receive such as he shall be then done with, and settle with him a plan of receiving from him regular [ly] the before mentioned books as fast as he shall get through them. The losses I have sustained by lending my books will be my apology to you for asking your particular attention to the replacing them in the presses as fast as you finish them, and not to lend them to any body else, nor suffer anybody to have a book out of the Study under cover of your name. You will find, when you get there, that I have had reason to ask this exactness.

I would have you determine beforehand to make yourself a thorough lawyer, & not be contented with a mere smattering. It is superiority of knowledge which can alone lift you above the heads of your competitors, and ensure you success. I think therefore you must calculate on devoting between two & three years to this course of reading, before you think of commencing practice. Whenever that begins, there is an end of reading.

I shall be glad to hear from you from time to time, and shall hope to see you in the fall in Albemarle, to which place I propose a visit in that season. In the mean time wishing you all the industry of patient perseverance which this course of reading will require I am with great esteem Dear Sir Your most obedient friend & servant.

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TO GEORGE MASON J. MSS.

NEW YORK, June 13, 1790.

DEAR SIR,—I have deferred acknowleging the receipt of your favor of Mar 16, expecting daily that the business of the consulships would have been finished. But this was delayed by the President's illness & a very long one of my own, so that it is not till within these two or three days that it has been settled. That of Bordeaux is given to Mr. Fenwick according to your desire. The commission is making out and will be signed to-morrow or next day.

I intended fully to have had the pleasure of seeing you at Gunstan hall on my way here, but the roads being so bad that I was obliged to leave my own carriage to get along as it could, & to take my passage in the stage, I could not deviate from the stage road. I should have been happy in a conversation with you on the subject of our new government, of which, tho' I approve of the mass, I would wish to see some amendments, further than those which have been proposed, and fixing it more surely on a republican basis. I have great hopes that pressing forward with constancy to these amendments, they will be obtained before the want of them will do any harm. To secure the ground we gain, & gain what more we can, is I think the wisest course. I think much has been gained by the late constitution; for the former one was terminating in anarchy, as necessarily consequent to inefficiency. The House of representatives have voted to remove to Baltimore by a majority of 53. against 6. This was not the effect of choice, but of the confusion into which they

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had been brought by the event of other questions, & their being hampered with the rules of the house. It is not certain what will be the vote of the Senate. Some hope an opening will be given to convert it into a vote of the temporary seat at Philadelphia, & the permanent one at Georgetown. The question of the assumption will be brought on again, & it's event is doubtful. Perhaps it's opponents would be wiser to be less confident in their success, & to compromise by agreeing to assume the state debts still due to individuals, on condition of assuming to the states at the same time what they have paid to individuals, so as to put the states in the shoes of those of their creditors whom they have paid off. Great objections lie to this, but not so great as to an assumption of the unpaid debts only. My duties preventing me from mingling in these questions, I do not pretend to be very competent to their decision. In general I think it necessary to give as well as take in a government like ours. I have some hope of visiting Virginia in the fall, in which case I shall still flatter myself with the pleasure of seeing you; in the meantime, I am with unchanged esteem & respect my dear Sir Your most obedient friend & servt.

TO THOMAS MANN RANDOLPH J. MSS.

New York June 20. 1790.

Dear Sir,—Your favor of May 25. came to hand on the 5th. inst. I am infinitely pleased at your predilection for settling in Albemarle. Certainly no

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circumstance in life is so near my heart as to have you near me. This will fix beyond a doubt my intended visit to Virginia, in the fall, in order to see what arrangements may be taken for settling you in Albemarle. In the meanwhile perhaps it might be as well for you to defer purchasing the 100 acres of land you mention, unless indeed Colo. Randolph were disposed to let you have a part of Edgehill. I cannot but hope that he, you, & myself, contributing what we can, may be able to accommodate you with as much at least of Edgehill as Colo. Randolph seemed willing to sell to mr Harvie. On this subject I must propose a negotiation with him.—On enquiry I find that New England is not the place to look out for skilful farmers. That is scarcely a country where wheat is cultivated at all. The best farmers in America I am told are those on the Delaware. I shall take measures for knowing whether one can be got for you & at what price.

Congress are much embarrassed by the two questions of assumption, and residence. All proceedings seem to be arrested till these can be got over, and for the peace & continuance of the union, a mutual sacrifice of opinion & interest is become the duty of everyone: for it is evident that if every one retains inflexibly his present opinion, there will be no bill passed at all for funding the public debts, & if they separate without funding, there is an end of the government, in this situation of things. The only choice is among disagreeable things. The assumption must be admitted, but in so qualified a form as to divest it of it's injustice. This may be done by assuring to

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the creditors of every state, a sum exactly proportioned to the contribution of the state: so that the state will on the whole neither gain nor lose. There will remain against the measure only the objection that Congress must lay taxes for these debts which might be better laid & collected by the states. On the question of residence, the compromise proposed is to give it to Philadelphia for 15. years, & then permanently to George town by the same act. This is the best arrangement we have now any prospect of, & therefore the one to which all our wishes are at present pointed. If this does not take place, something much worse will; to wit an unqualified assumption & the permanent seat on the Delaware. The Delegations of this state and Pennsylvania have conducted themselves with great honor and wisdom on these questions. They have by a steady (yet not a stipulated) concurrence avoided insidious baits which have been held out to divide them & defeat their object.

The revolution in France is still going on slowly & surely. There is a league of Prussia, Poland, Sweden & Turkey formed under the auspices of England & Holland against the two empires, who are scarcely in a condition to oppose such a combination. There is also a possibility of immediate war between England and Spain. The day before the mail of the last packet came away that is, on the 6th. of May, the king by a message to both houses, informed them of the capture of two British vessels by the Spaniards at Nootka sound, under a claim of exclusive right to those coasts, that he had demanded satisfaction, and

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was arming to obtain it. There was a very hot press of seamen, & several ships of war had already put to sea. Both houses unanimously promised support: & it seems as if they would insist on an unequivocal renunciation of her vague claims on the part of Spain. Perhaps they are determined to be satisfied with nothing less than war, dismemberment of the Spanish empire, and annihilation of their fleet.

TO JAMES MONROE J. MSS.

NEW YORK, June 20, 1790.

DEAR SIR,—An attack of a periodical headach, which tho violent for a few days only, yet kept me long in a lingering state, has hitherto prevented my sooner acknowledging the receipt of your favor of May 26. I hope the uneasiness of Mrs. Monroe & yourself has been removed by the re-establishment of your daughter. We have been in hopes of seeing her here, and fear at length some change in her arrangements for that purpose.

Congress has been long embarrassed by two of the most irritating questions that ever can be raised among them, 1. the funding the public debt, and 2. the fixing on a more central residence. After exhausting their arguments & patience on these subjects, they have for some time been resting on their oars, unable to get along as to these businesses, and indisposed to attend to anything else till they are settled. And in fine it has become probable that unless they can be reconciled by some plan of com-

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promise, there will be no funding bill agreed to, our credit (raised by late prospects to be the first on the exchange at Amsterdam, where our paper is above par) will burst and vanish, and the states separate to take care every one of itself. This prospect appears probable to some well informed and well-disposed minds. Endeavours are therefore using to bring about a disposition to some mutual sacrifices. The assumption of state debts has appeared as revolting to several states as their non-assumption to others. It is proposed to strip the proposition of the injustice it would have done by leaving the states who have redeemed much of their debts on no better footing than those who have redeemed none; on the contrary it is recommended to assume a fixed sum, allotting a portion of it to every State in proportion to it's census. Consequently every one will receive exactly what they will have to pay, or they will be exonerated so far by the general government's taking their creditors off their hands. There will be no injustice then. But there will be the objection still that Congress must then lay taxes for these debts which would have been much better laid & collected by the state governments. And this is the objection on which the accommodation now hangs with the non-assumptioners, many of whom committed themselves in their advocation of the new constitution by arguments drawn from the improbability that Congress would ever lay taxes where the states could do it separately. These gentlemen feel the reproaches which will be levelled at them personally. I have been, & still am of

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their opinion that Congress should always prefer letting the States raise money in their own way where it can be done. But in the present instance I see the necessity of yielding for this time to the cries of the creditors in certain parts of the union, for the sake of union, and to save us from the greatest of all calamities, the total extinction of our credit in Europe. On the other subject it is proposed to pass an act fixing the temporary residence of 12. or 15. years at Philadelphia, and that at the end of that time it shall stand *ipso facto* & without further declaration transferred to Georgetown. In this way, there will be something to displease & something to soothe every part of the Union, but New York, which must be contented with what she has had. If this plan of compromise does not take place, I fear one infinitely worse, an unqualified assumption, & the perpetual residence on the Delaware. The Pennsylvania & Virginia delegations have conducted themselves honorably & unexceptionably on the question of residence. Without descending to talk about bargains they have seen that their true interests lay in not listening to insidious propositions made to divide & defect them, and we have seen them at times voting against their respective wishes rather than separate. * * *

I flatter myself with being in Virginia in the autumn. The particular time depends on too many contingencies to be now fixed. I shall hope the pleasure of seeing yourself & Mrs. Monroe either in Albemarle or wherever else our routes may cross each other. Present me affectionately to her and

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to my good neighbors generally, and be assured of the great & sincere esteem of, Dear Sir, Your affectionate friend & humble servt.

TO C. W. F. DUMAS J. MSS.

NEW YORK, June 23, 1790.

DEAR SIR,—I arrived at this place the latter end of March, and undertook the office to which the President had been pleased to appoint me, of Secretary of State, which comprehends that of Foreign Affairs. Before I had got through the most pressing matters which had been accumulating, a long illness came upon me, and put it out of my power for many weeks to acknowledge the receipt of your letters. * * *

We are much pleased to learn the credit of our paper at Amsterdam. We consider it as of the first importance, to possess the first credit there, and to use it little. Our distance from the wars of Europe, and our disposition to take no part in them, will, we hope, enable us to keep clear of the debts which they occasion to other powers. It will be well for yourself and our bankers to keep in mind always, that a great distinction is made here, between our foreign and domestic paper. As to the foreign, Congress is considered as the representative of one party only, and I think I can say with truth, that there is not one single individual in the United States, either in or out of office, who supposes they can ever do anything which might impair their foreign contracts.

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But with respect to domestic paper, it is thought that Congress, being the representative of both parties, may shape their contracts so as to render them practicable, only seeing that substantial justice be done. This distinction will explain to you their proceedings on the subject of their debts. The funding their foreign debts, according to express contract, passed without a debate and without a dissenting voice. The modelling and funding the domestic debt, occasions great debates, and great difficulty. The bill of ways and means was lately thrown out, because an excise was interwoven into its texture; and another ordered to be brought in, which will be clear of that. The assumption of the debts contracted by the States to individuals, for services rendered the Union, is a measure which divides Congress greatly. Some think that the States could much more conveniently levy taxes themselves to pay off these, and thus save Congress from the odium of imposing too heavy burthens in their name. This appears to have been the sentiment of the majority hitherto. But it is possible that modifications may be proposed, which may bring the measure yet into an acceptable form. We shall receive with gratitude the copy of Rymer's *Federa*, which you are so good as to propose for the use of our offices here.

TO DR. DAVID RAMSAY J. MSS.

NEW YORK June 27. 1790.

DEAR SIR,— * * * Congress proceed heavily. Their funding plans are embarrassed with a propo-

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sition to assume the state debts, which is as disagreeable to a part of the Union as desireable to another part. I hope some compromise will be found. Great endeavors are using to get the temporary seat of government to Philadelphia, & the permanent one to George town. The counter project is New York & Baltimore. No time for their adjournment can be yet calculated on. * * *

TO DR. GEORGE GILMER J. MSS.

NEW YORK, June 27, 1790.

DEAR DOCTOR,—I have duly received your favor of May 21 and thank you for the details it contains. Congressional proceedings go on rather heavily. The question for assuming the state debts, has created greater animosities than I ever yet saw take place on any occasion. There are three ways in which it may yet terminate. 1. A rejection of the measure which will prevent their funding any part of the public debt, and will be something very like a dissolution of the government. 2. A bargain between the Eastern members who have it so much at heart, & the middle members who are indifferent about it, to adopt those debts without any modification on condition of removing the seat of government to Philadelphia or Baltimore. 3. An adoption of them with this modification that the whole sum to be assumed shall be divided among the states in proportion to their census; so that each shall receive as much as they are to pay; & perhaps this might bring about so much good humour as to induce them

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to give the temporary seat of government to Philadelphia, & then to Georgetown permanently. It is evident that this last is the least bad of all the turns the thing can take. The only objection to it will be that Congress will then have to lay & collect taxes to pay these debts, which could much better have been laid & collected by the state governments. This, tho' an evil, is a less one than any of the others in which it may issue, and will probably give us the seat of government at a day not very distant, which will vivify our agriculture & commerce by circulating thro' our state an additional sum every year of half a million of dollars. When the last packet left England there was a great appearance of an immediate rupture with Spain. Should that take place, France will become a party. I hope peace & profit will be our share. Present my best esteem to Mrs. Gilmer & my enquiring neighbors.

TO FRANCIS EPPES J. MSS.

NEW YORK July 4. 1790.

DEAR SIR,—The business of Congress has proceeded very slowly lately. Two interesting questions have so chafed the members that they can scarcely go on with one another. One of these is happily getting over. The Senate has passed the bill for transferring the temporary residence of Congress to Philadelphia for 10. years and the permanent one to George town thenceforward. The other question relative to the assumption of the state debts is still undecided. In the form in which it has been pro-

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posed, it will [not] can never be admitted. But neither can the proposition be totally rejected without preventing the funding the public debt altogether which would be tantamount to a dissolution of the government. I am in hopes it will be put into a just form, by assuming to the creditors of each state in proportion to the census of each state, so that the state will be exonerated toward it's creditors just as much as it will have to contribute to the assumption, & consequently no injustice done. The only objection then would be that the states could more conveniently levy taxes themselves to pay these debts. I am clearly of this opinion, but I see the necessity of sacrificing our opinions some times to the opinions of others for the sake of harmony. There is some prospect of a war between Spain and England. Should this take place, France will certainly be involved in it, & it will be as general a war as has ever been seen in Europe: consequently it will be long patching up a peace which will adjust so many interests. In the meantime I hope peace & profit will be our lot.—I think there is every prospect of a good price for our produce, & particularly our wheat for years to come.—The revolution in France goes on with a slow but steady step. Their West India islands are all in combustion. There is no government in them. Consequently their trade entirely open to us. I shall come to Virginia in September. Most probably early in the month, tho' I had rather make it a little later if the time to be fixed by the President for removal to Philadelphia will admit it. For I take it for granted the bill will pass the H. of

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representatives where it has been read once or twice, and will be finally decided on the day after tomorrow. Present me most affectionately to mrs Eppes and the family. I am my Dear Sir Your affectionate friend & servt.

TO EDWARD RUTLEDGE J. MSS.

NEW YORK, July 4. 1790.

MY DEAR SIR,—Your favor of Apr. 28. came to hand May 11. and found me under a severe indisposition which kept me from all business more than a month, and still permits me to apply but very sparingly. That of June 20. was delivered me two days ago by young mr Middleton whom I was very glad to see, as I am every body & every thing which comes from you. It will give me great pleasure to be of any use to him on his father's account as well as your's.

In your's of Apr. 28. you mention Dr. Turnbull's opinion that force alone can do our business with the Algerines. I am glad to have the concurrence of so good an authority on that point. I am clear myself that nothing but a perpetual cruize against them, or at least for 8 months of the year & for several years, can put an end to their piracies: and I believe that a confederacy of the nations not in treaty with them can be effected so as to make that perpetual cruise, or our share of it, a very light thing: and I am in hopes this may shortly be the case.—I participate fully of your indignation at the trammels imposed on our commerce with Great Britain. Some attempts have been made in Congress, and others

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are still making to meet their restrictions by effectual restrictions on our part. It was proposed to double the foreign tonnage for a certain time & after that to prohibit the exportation of our commodities in the vessels of nati[on]s not in treaty with us. This has been rejected. It is now proposed to prohibit any nation from bringing or carrying in their vessels what may not be brought or carried in ours from or to the same ports: also to prohibit those from bringing to us any thing not of their own produce, who prohibit us from carrying to them any thing but our own produce. It is thought however that this cannot be carried. The fear is that it would irritate Great Britain were we to feel any irritation ourselves. You will see by the debates of Congress that there are good men and bold men, & sensible men, who publicly avow these sentiments. Your observation on the expediency of making short treaties are most sound. Our situation is too changing, & too improving, to render an unchangeable treaty expedient for us. But what are these enquiries on the part of the British minister which lead you to think he means to treat? May they not look to some other object? I suspect they do: & can no otherwise reconcile all circumstances. I would thank you for a communication of any facts on this subject.

Some questions have lately agitated the mind of Congress more than the friends of union on catholic principles could have wished. The general assumption of state debts has been as warmly demanded by some states, as warmly rejected by others. I hope still that this question may be so divested of the

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injustice imputed to it as to be compromised. The question of residence you know was always a heating one. A bill has passed the Senate for fixing this at Philadelphia ten years, & then at George town: and it is rather probable it will pass the lower house. That question then will be put to sleep for ten years; & this and the funding business being once out of the way, I hope nothing else may be able to call up local principles.—If the war between Spain & England takes place, I think France will inevitably be involved in it. In that case I hope the new world will fatten on the follies of the old. If we can but establish the principles of the armed neutrality for ourselves, we must become the carriers for all parties as far as we can raise vessels.

The President had a hair breadth escape: but he is now perfectly re-established, & looks much better than before he was sick.—I expect daily to see your nephew, mr J. Rutledge, arrive here, as he wrote me by the May packet that he would come in that of June. He is a very hopeful young man, sensible, well-informed, prudent, & cool. Our Southern sun has been accused of sometimes sublimating the temper too highly. I wish all could think as coolly, but as soundly & firmly too as you do. Adieu my Dear friend. Yours affectionately

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TO JAMES MONROE J. MSS.

NEW YORK July 11. 1790.

DEAR SIR,—I wrote you last on the 20th. of June. The bill for removing the federal government to

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Philadelphia for 10. years & then to Georgetown has at length passed both houses. The offices are to be removed before the first of December. I presume it will be done during the President's trip to Virginia about the 1st. of September & October. I hope to set out for Virginia about the 1st of September and to pass three or four weeks at Monticello. Congress will now probably proceed in better humour to funding the public debt. This measure will secure to us the credit we now hold at Amsterdam, where our European paper is above par, which is the case of no other nation. Our business is to have great credit and to use it little. Whatever enables us to go to war, secures our peace. At present it is essential to let both Spain & England see that we are in a condition for war, for a number of collateral circumstances now render it probable that they will be in that condition. Our object is to feed & theirs to fight. If we are not forced by England, we shall have a gainful time of it.—A vessel from Gibraltar of the 10th. of June tells us O'Hara was busily fortifying & providing there, & that the English Consuls in the Spanish ports on the Mediterranean had received orders to dispatch all their vessels from those ports immediately. The Captain saw 15. Spanish ships of war going to Cadiz. It is said that Arnold is in Detroit reviewing the militia there. Other symptoms indicate a general design on all Louisiana & the two Floridas. What a tremendous position would success in these objects place us in! Embraced from the St. Croix to the St. Mary's on one side by their possessions, on the other by their fleet,

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we need not hesitate to say that they would soon find means to unite to them all the territory covered by the ramifications of the Mississippi. Mrs Monroe's friends were well three or four days ago. We are all disappointed at her not coming here.

OPINION ON WAR BETWEEN GREAT BRITAIN AND SPAIN [1]

J. MSS.

[JULY 12, 1790.]

Heads of consideration on the conduct we are to observe in the war between Spain and Gt. Britain and particularly should the latter attempt the conquest of Louisiana & the Floridas.[2]

The dangers to us, should great Britain possess herself of those countries.

[1] Jefferson sent this to the President, with the following note:

"Th: Jefferson had a conference yesterday with Mr. Madison on the subject recommended by the President. He has the honor of inclosing him some considerations thereon, in all of which he believes Mr. Madison concurred. He has sketched the heads only, as the President's mind will readily furnish the developement of each. He will wait on the President at one o'clock on some other business, and then and at all other times be ready to enter more into the details of any part of the subject the President may chuse.

"July 12, 1790."

The complete series of documents relating to this episode are given in Mr. Worthington C. Ford's *The United States and Spain in 1790. Brooklyn: 1890.*

[2] Among the Jefferson MSS. is a single sheet, containing what is evidently the first, or rough draft of this paper. As it varies in several respects, it is included here for purposes of comparison.

Heads of consideration on the conduct we are to observe in the war between Spain and Gr. Britain, and particularly should the latter attempt the conquest of Louisiana and the Floridas.

The danger to us shd. G. B. possess herself of Louisiana and the Floridas.

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She will possess a territory equal to half ours, beyond the Missisipi.
She will reduce that half of ours which is on this side the Missisipi.
by her language, laws, religion, manners, government, commerce, capital.
by the possession of N. Orleans, which draws to it ye dependance of all ye waters of Misspi.

Beyond the Missi. a territory equal to half ours.
She would reduce our Cis-Missi. possessions.
Because N. Orleans will draw to it the dependence of all those waters.
By her language, laws, religion, manners, govnt., commerce, capitals.
By the markets she can offer them in the gulph of Mexico.
She would then have a territory the double of ours.
She would take away the markets of the Atlantic States,
By furnishing the same articles cheaper, tobo., rice, indigo, bread, lumber, fur.
She would encircle us completely, her possessions forming a line on our land boards, her fleets on our sea board. Instead of two neighbors balancing each other, we should have one with ye strength of both.
Would the prevention of this be worth a War?
Consider our abilities to make a war.
Our operations would be by land only.
How many men would it need to employ?—their cost?
Our resources by taxation and credit equal to this.
Weigh the evil of this new accumulation of debt.
Against the loss of market and eternal danger and expence of such a neighbor.
But no need to take a part as yet. We may choose our own time for that.
Delay gives us many chances to avoid it altogether.
They may not single out that object.
They may fail in it.
France and Spain may recover it.
The difference between prevention and retaking, overbaled. by benefits of delay.
Enables us to be better prepared.
To stipulate with Spain and France advantages for our assistance.

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by the markets she can offer them in the gulph of Mexico & elsewhere.

She will take from the remaining part of our States the markets they now have for their produce by furnishing those markets cheaper with the same articles, tobo. rice. indigo. bread. lumber. naval stores. furs.

Suppose these our ultimate views, what is to be done at this time?

1. As to Spain.

If she be as sensible as we are, that she cannot save Louisiana and the Floridas, might she not prefer their Independce. to their Subjectn. to Gr. Br.?

Can we not take advantage of Ct. D'Estaing's propos'n to communicate thro' the court of France our ideas on this subject and our readiness to join them in guarantee?

This might save us from a war, if Gr. Br. respects our weight in a war.

If she does not, it would place the war on popular ground.

2. As to England, say to B.

That as to a treaty of commerce we hd. never desired it but on terms of perfect reciprocity.

That therefore we never thought to give any price for it but itself.

That we had wished for it to avoid giving mutual bonds to the commerce of both nations.

But that we have the measures in our own power which may save us from loss.

That as to the alliance they propose, it would involve us against France and Spain.

And considered even in a moral view, no price could repay such an abandonmt. of character.

That we are truly disposed to remain strictly neutral. Tho' we must confess yt. we shd. view in a very serious light attempts to extend themselves along our frontier, and destroy all balance in our neighborhood.

[The latter sentiment it might be advantageous to express, because if there be any difference of op'n in her councils whether to bend their force agt. North or South America (and certainly there is room for difference) and if these operations be nearly balanced, the possibility of drawing an enemy the more on themselves, might determine the balance.]

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She will have then possessions double the size of ours, as good in soil & climate.

She will encircle us compleatly, by these possessions on our land board, and her fleets on our sea-board.

instead of two neighbors balancing each other, we shall have one, with more than the strength of both.

Would the prevention of this be worth a War?

consider our abilities to take part in a war.

our operations would be by land only.

how many men should we need to employ?—their cost?

our resources of taxation & credit equal to this.

Weigh the evil of this new accumulation of debt against the loss of markets, & eternal expence & danger from so overgrown a neighbor.

But this is on supposition that France as well as Spain shall be engaged in the war.

for with Spain alone the war would be unsuccessful, & our situation rendered worse.

No need to take a part in the war as yet—we may chuse our own time.

Delay gives us many chances to avoid it altogether.

In such a choice of objects, Gr. Britain may not single out Louisiana & the Floridas.

she may fail in her attempt on them.

France and Spain may recover them.

if all these chances fail, we should have to re-take them.

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the difference between retaking, & preventing, overbalanced by the benefits of delay.

Delay enables us to be better prepared.

to obtain from the allies a price for our assistance.

Suppose these our ultimate views, What is to be done at this time?

1. as to Spain?

if she be as sensible as we are, that she cannot save Louisiana and the Floridas, might she not prefer their Independance to their Subjection to Gr. Britain?

Does not the proposition of the Ct. d'Estaing furnish us an opening to communicate our ideas on this subject to the court of France, and thro' them to that of Madrid? And our readiness to join them in guaranteeing the independance of those countries?

this might save us from a war, if Gr. Britain respects our weight in a war.

and if she does not, the object would place the war on popular ground with us.

2. As to England? say to Beckwith

'that as to a Treaty of commerce, we would prefer amicable to adversary arrangements, tho' the latter would be infallible, and in our power: that our ideas are that such a treaty should be founded in perfect reciprocity: and wd. therefore be it's own price:

that as to an Alliance, we can say nothing till it's object be shewn, & that it is not to be inconsistent with existing engagements:

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that in the event of a war between Gr. Britain & Spain we are disposed to be strictly neutral: that however we should view with extreme uneasiness any attempt of either power to seize the possessions of the other on our frontier, as we consider our own safety interested in a due balance between our neighbors' [it might be advantageous to express this latter sentiment, because if there be any difference of opinion in their councils, whether to bend their force against North or South America, or the islands (and certainly there is room for difference) and if these opinions be nearly balanced, that balance might be determined by the prospect of having an enemy the more, or less, according to the object they should select].

TO C. W. F. DUMAS J. MSS.

NEW YORK, JULY 13, 1790.

SIR,— * * * Congress are still engaged in their funding bills. The foreign debts did not admit of any difference of opinion. They were settled by a single and unanimous vote; but the domestic debt, requiring modifications and settlements, these produce great difference of opinion, and consequently retard the passage of the funding bill. The States had individually contracted considerable debts for their particular defence, in addition to what was done by Congress Some of the States have so exerted themselves since the war, as to have paid off near the

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half of their individual debts. Others have done nothing. The State creditors urge, that these debts were as much for general purposes as those contracted by Congress, and insist that Congress shall assume and pay such of them as have not been yet paid by their own States. The States who have exerted themselves most, find that, notwithstanding the great payments they have made, they shall by this assumption, still have nearly as much to pay as if they had never paid anything. They are therefore opposed to it. I am in hopes a compromise will be effected by a proportional assumption, which may reach a great part of the debts, and leave still a part of them to be paid by those States who have paid few or none of their creditors. This being once settled, Congress will probably adjourn, and meet again in December, at Philadelphia. The appearance of war between our two neighbors, Spain and England, would render a longer adjournment inexpedient.

TO THE PRESIDENT OF THE UNITED STATES D. S. MSS.

Thursday July 15, 1790.

SIR,—I have formed an opinion, quite satisfactory to myself, that the adjournment of Congress may be by law, as well as by resolution, without touching the Constitution. I am now copying fair what I had written yesterday on the subject & will have the honor of laying it before you by ten o'clock. The address to the President contains a very full digest of all the arguments urged against the bill on the

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point of unconstitutionality on the floor of Congress. It was fully combated on that ground, in the Committee of the whole, & on the third reading. The majority (a southern one) overruled the objection, as a majority (a northern one) had overruled the same objection the last session on the Susquehanna residence bill. So that two Majorities, in the two different sessions, & from different ends of the Union have overruled the objection, and may be fairly supposed to have declared the sense of the whole Union. I shall not lose a moment in laying before you my thoughts on the subject.

OPINION ON RESIDENCE BILL J. MSS.

[July 15, 1790.]

Opinion upon the question whether the President should veto the Bill, declaring that the seat of government shall be transferred to the Potomac, in the year 1790.

A bill having passed both houses of Congress, and being now before the President, declaring that the seat of the federal government shall be transferred to the Potomac in the year 1790, that the session of Congress next ensuing the present shall be held in Philadelphia, to which place the offices shall be transferred before the 1st of December next, a writer in a public paper of July 13, has urged on the consideration of the President, that the constitution has given to the two houses of Congress the exclusive right to adjourn themselves; that the will of the

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President mixed with theirs in a decision of this kind, would be an inoperative ingredient, repugnant to the constitution, and that he ought not to permit them to part, in a single instance, with their constitutional rights; consequently, that he ought to negative the bill.

That is now to be considered:

Every man, and every body of men on earth, possesses the right of self-government. They receive it with their being from the hand of nature. Individuals exercise it by their single will; collections of men by that of their majority; for the law of the *majority* is the natural law of every society of men. When a certain description of men are to transact together a particular business, the times and places of their meeting and separating, depend on their own will; they make a part of the natural right of self-government. This, like all other natural rights, may be abridged or modified in its exercise by their own consent, or by the law of those who depute them, if they meet in the right of others; but as far as it is not abridged or modified, they retain it as a natural right, and may exercise them in what form they please, either exclusively by themselves, or in association with others, or by others altogether, as they shall agree.

Each house of Congress possesses this natural right of governing itself, and, consequently, of fixing its own times and places of meeting, so far as it has not been abridged by the law of those who employ them, that is to say, by the Constitution. This act manifestly considers them as possessing this right

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of course, and therefore has nowhere given it to them. In the several different passages where it touches this right, it treats it as an existing thing, not as one called into existence by them. To evince this, every passage of the constitution shall be quoted, where the right of adjournment is touched; and it will be seen that no one of them pretends to give that right; that, on the contrary, every one is evidently introduced either to enlarge the right where it would be too narrow, to restrain it where, in its natural and full exercise, it might be too large, and lead to inconvenience, to defend it from the latitude of its own phrases, where these were not meant to comprehend it, or to provide for its exercise by others, when they cannot exercise it themselves.

"A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members." Art. 1, Sec. 5. A majority of every collection of men being naturally necessary to constitute its will, and it being frequently to happen that a majority is not assembled, it was necessary to enlarge the natural right by giving to "a smaller number than a majority" a right to compel the attendence of the absent members, and, in the meantime, to adjourn from day to day. This clause, then, does not pretend to give to a majority a right which it knew that majority would have of themselves, but to a number *less than a majority*, a right to which it knew that lesser number could not have of themselves.

"Neither house, during the session of Congress,

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shall, without the consent of the other adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting." *Ibid.* Each house exercising separately its natural right to meet when and where it should think best, it might happen that the two houses would separate either in time or place, which would be inconvenient. It was necessary, therefore, to keep them together by restraining their natural right of deciding on separate times and places, and by requiring a concurrence of will.

But, as it might happen that obstinacy, or a difference of object, might prevent this concurrence, it goes on to take from them, in that instance, the right of adjournment altogether, and to transfer it to another, by declaring, Art. 2, Sec. 3, that "in case of disagreement between the two houses, with respect to the time of adjournment, the President may adjourn them to such time as he shall think proper."

These clauses, then, do not import a gift, to the two houses, of a general right of adjournment, which it was known they would have without that gift, but to restrain or abrogate the right it was known they would have, in an instance where, exercised in its full extent, it might lead to inconvenience, and to give that right to another who would not naturally have had it. It also gives to the President a right, which he otherwise would not have had, "to convene both houses, or either of them, on extraordinary occasions." Thus substituting the will of another, where they are not in a situation to exercise their own.

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"Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President for his approbation, &c." Art. I, Sec. 7. The latitude of the general words here used would have subjected the natural right of adjournment of the two houses to the will of the President, which was not intended. They therefore expressly "except questions of adjournment" out of their operation. They do not here give a right of adjournment, which it was known would exist without their gift, but they defend the existing right against the latitude of their own phrases, in a case where there was no good reason to abridge it. The exception admits they will have the right of adjournment, without pointing out the source from which they will derive it.

These are all the passages of the constitution (one only excepted, which shall be presently cited) where the right of adjournment is touched; and it is evident that none of these are introduced to give that right; but every one supposes it to be existing, and provides some specific modification for cases where either a defeat in the natural right, or a too full use of it, would occasion inconvenience.

The right of adjournment, then, is not given by the constitution, and consequently it may be modified by law without interfering with that instrument. It is a natural right, and, like all other natural rights, may be abridged or regulated in its exercise by law; and the concurrence of the third branch in any law regulating its exercise is so efficient an ingredient in

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that law, that the right cannot be otherwise exercised but after a repeal by a new law. The express terms of the constitution itself show that this right may be modified *by law*, when, in Art. I, Sec. 4, (the only remaining passage on the subject not yet quoted) it says, "The Congress shall assemble at least once in every year, and such meeting shall be the first Monday in December, unless they shall, *by law*, appoint a different day." Then another day may be appointed *by law;* and the President's assent is an efficient ingredient in that law. Nay, further, they cannot adjourn over the first Monday of December but by *a law*. This is another constitutional abridgment of their natural right of adjournment; and completing our review of all the causes in the constitution which touch that right, authorizes us to say no part of that instrument gives it; and that the houses hold it, not from the constitution, but from nature.

A consequence of this is, that the houses may, by a joint resolution, remove themselves from place to place, because it is a part of their right of self-government; but that as the right of self-government does not comprehend the government of others, the two houses cannot, by a joint resolution of their majorities only, remove the executive and judiciary from place to place. These branches possessing also the rights of self-government from nature, cannot be controlled in the exercise of them but by a law, passed in the forms of the constitution. The clause of the bill in question, therefore, was necessary to be put into the form of a law, and to be submitted to the

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President, so far as it proposes to effect the removal of the Executive and Judiciary to Philadelphia. So far as respects the removal of the present houses of legislation thither, it was not necessary to be submitted to the President; but such a submission is not repugnant to the constitution. On the contrary, if he concurs, it will so far fix the next session of Congress at Philadelphia that it cannot be changed but by a regular law.

The sense of Congress itself is always respectable authority. It has been given very remarkably on the present subject. The address to the President in the paper of the 13th is a complete digest of all the arguments urged on the floor of the Representatives against the constitutionality of the bill now before the President; and they were overruled by a majority of that house, comprehending the delegation of all the States south of the Hudson, except South Carolina. At the last cession of Congress, when the bill for remaining a certain term in New York and then removing to Susquehanna or Germantown was objected to on the same ground, the objection was overruled by a majority comprehending the delegations of the northern half of the union with that of South Carolina. So that the sense of every State in the union has been expressed, by its delegation, against this objection South Carolina excepted, and excepting also Rhode Island, which has never yet had a delegation in place to vote on the question. In both these instances the Senate concurred with the majority of the Representatives. The sense of the two houses is stronger authority in

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this case, as it is given against their own supposed privilege.

It would be as tedious, as it is unnecessary, to take up and discuss one by one, the objections proposed in the paper of July 13. Every one of them is founded on the supposition that the two houses hold their right of adjournment from the constitution. This error being corrected, the objections founded on it fall of themselves.

It would also be work of mere supererogation to show that, granting what this writer takes for granted (that the President's assent would be an inoperative ingredient, because excluded by the constitution, as he says), yet the particular views of the writer would be frustrated, for on every hypothesis of what the President may do, Congress must go to Philadelphia. 1. If he assents to the bill, that assent makes good law of the part relative to the Patomac; and the part for holding the next session at Philadelphia is good, either as an ordinance, or a vote of the two houses, containing a complete declaration of their will in a case where it is competent to the object; so that they must go to Philadelphia in that case. 2. If he dissents from the bill it annuls the part relative to the Patomac; but as to the clause for adjourning to Philadelphia, his dissent being as inefficient as his assent, it remains a good ordinance or vote, of the two houses for going thither, and consequently they must go in this case also. 3. If the President withholds his will out of the bill altogether, by a ten days' silence, then the part relative to the Potomac becomes a good law

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without his will, and that relative to Philadelphia is good also, either as a law, or an ordinance, or a vote of the two houses; and consequently in this case also they go to Philadelphia.

TO WILLIAM TEMPLE FRANKLIN J. MSS.

NEW YORK July 16, 1790.

DEAR SIR,—On further reflection it appears to me that the houses you mentioned of Mrs. Buddin', would suit me so perfectly that I must beg the favor of you to insure me the refusal of two of them adjoining to each other, on the best terms you can. Houses will doubtless rise in the first moment, but as the residence of Congress really calls for but a very few houses, such as those, (probably not a dozen) I suppose there will be new buildings immediately erected more than equal to the new demand. This ought to be a consideration with the proprietor to be moderate, in order to ensure the continuance of a tenant. My object in taking two houses is to assign the lower floor of both to my public offices, and the first floor and both gardens entirely to my own use. Perhaps the third floor of one of them might also be necessary for dead office papers, machines, &c. I should wish for such a gallery on the back of the building as I have had erected here. It might cost about £150. on which I would pay the usual additional rent. This need only be spoken of so as to prepare them for agreeing to make the addition. A good neighbor is a very desirable

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thing. Mr. Randolph the Attorney Genl. is probably now in Philadelphia, & I think would like the same part of the town. I wish the 3d. house (my two being secured) could be proposed to him. I beg your pardon for giving you so much trouble, but your kind offer brought it on you.

TO FRANCIS EPPES J. MSS.

NEW YORK, July 25, 1790.

DEAR SIR,—I have duly received your favor of May 30, inclosing Mr. Ross's accounts &c. I observe that almost the whole of the balance he makes, results from turning money into tobacco at 20/. and then turning it back again into money at 36/. If there was ever any agreement between Mr. Ross & me to pay him any part of the account in tobacco, it must be paid him in tobacco. But neither justice nor generosity can call for referring any thing to any other scale than that of hard money. Paper money was a cheat. Tobacco was the counter-cheat. Every one is justifiable in rejecting both except so far as his contracts bind him. I shall carry these papers to Virginia, and there settle the matter. War or no war, between England & Spain is still a doubtful question. If there be war, France will probably take part in it. This we cannot help, and therefore we must console ourselves with the good price for wheat which it will bring us.

The assumption of the state debts will, I believe, be agreed to; somewhat on the plan mentioned to

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you in my last. They assume particularly for the state of Virginia the exact quota she will be liable to of the whole sum assumed, but the same justice is not done to the other states. More is given to some, who owed more, & less to others who owed & asked less. It is a measure of necessity. I hope to set out about the beginning of Sep. for Monticello. I am in hopes the season will invite Mrs. Eppes & yourself to make an excursion there, which will make me very happy. It is a society which will ever be dear to me.

TO COLONEL JOHN HARVIE J. MSS.

NEW YORK, July 25, 1790.

DEAR SIR,—I received yesterday your favor of July 12, by Mr. Austin and am glad of the occasion it's acknowledgment furnishes me of resuming a correspondence which distance & business have long interrupted, but which has never wanted the urgency of motives of sincere friendship on my part. Mr. Austin shall certainly receive every aid I can give him. That which he asks from Congress I suppose very doubtful. No body can say where such a precedent would carry them. A contract to supply government with the lead it may want I should think him entitled to on principles of sound policy.

It is still uncertain whether there will be war between Spain & England. If there is, France will probably embark in it. Her revolution is so far advanced that it cannot be disturbed by a war. Perhaps it may improve their constitution by adapting

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it to that circumstance. As yet appearances indicate war, tho' there is a leading fact against it, that of a British Ambassador having actually gone to Madrid. Be this as it will, there will be war enough to give us high prices for wheat for years to come; & this single commodity will make us a great & happy nation.

The assumption will I believe pass in the form in which you see it in the publick papers. That is to say a fixed sum will be assumed & divided among the States. The partition is governed by a combination of their census & their circumstances. The greatest proportions by far are given to Massachusets & S. Carolina because they were indebted in a still higher proportion. That Virginia might not lose [the] benefit from the paiements she has made of her domestic debt, [th]ey assume for her exactly what it is supposed she will have to [fu]rnish of the whole sum assumed. It is imagined too this sum will [cov]er the whole of her remaining domestic debt. To other States which [ow]ed & asked less, less is apportioned. With respect to Virginia, the [m]easure is thus divested of it's injustice. It remains liable, however, [to] others founded in policy. I have no doubt that the states should be [l]eft to do whatever acts they can do as well as the general government, and that they could have availed themselves of resources [f]or this paiment which are cut off from the general government by the prejudices existing against direct taxation in their hands. [They] must push therefore the tax on imports as far as it will bear, [and] this is not a proper object to bear all the taxes of a state.

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However, the impossibility that certain states could ever pay the debts they had contracted, the acknowledgement that nine tenths of these debts were contracted for the general defence as much as those contracted by Congress directly, the clamours of the creditors within those states, and the possibility that these might defeat the funding any part of the public debt, if theirs also were not assumed, were motives not to be neglected. I saw the first proposition for this assumption with as much aversion as any man, but the development of circumstances have convinced me that if it is obdurately rejected, something much worse will happen. Considering it therefore as one of the cases in which mutual sacrifice & accommodation is necessary, I shall see it pass with acquiescence. It is to be observed that the sums to be assumed, are to be on account only.—McGillivray & his chiefs are here. We hope good from this visit. Congress I think will adjourn between the 6th and 13th of August. The President will very soon after set out for Virginia. I shall avail myself of this interregnum to visit Virginia.

OPINION ON INDIAN TRADE

[July 29th, 1790.]

Opinion in regard to the continuance of the monopoly of the commerce of the Creek nation, enjoyed by Col. McGillivray:

Colonel McGillivray, with a company of British merchants, having hitherto enjoyed a monopoly of

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the commerce of the Creek nation, with a right of importing their goods duty free, and considering these privileges as the principal sources of his power over that nation, is unwilling to enter into treaty with us, unless they can be continued to him. And the question is how this may be done consistently with our laws, and so as to avoid just complaints from those of our citizens who would wish to participate of the trade?

Our citizens, at this time, are not permitted to trade in that nation. The nation has a right to give us their peace, and to withhold their commerce, to place it under whatever monopolies or regulations they please. If they insist that only Colonel McGillivray and his company shall be permitted to trade among them, we have no right to say the contrary. We shall even gain some advantage in substituting citizens of the United States instead of British subjects, as associates of Colonel McGillivray, and excluding both British and Spaniards from the country.

Suppose, then, it be expressly stipulated by treaty, that no person be permitted to trade in the Creek country, without a license from the President, that but a fixed number shall be permitted to trade there at all, and that the goods imported for and sent to the Creek nation, shall be duty free. It may further be either expressed that the person licensed shall be approved by the leader or leaders of the nation, or without this, it may be understood between the President and McGillivray that the stipulated number of licenses shall be sent to him blank, to fill up.

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A treaty made by the President, with the concurrence of two-thirds of the Senate is a law of the land, and a law of superior order, because it not only repeals past laws, but cannot itself be repealed by future ones.[1] The treaty, then, will legally control the duty acts, and the acts for licensing traders, in this particular instance. When a citizen applies for a license, who is not of McGillivray's partnership, he will be told that but a given number could be licensed by the treaty, and that the number is full. It seems that in this way no law will be violated, and no just cause of complaint will be given; on the contrary, the treaty will have bettered our situation though not in the full degree which might have been wished.

TO THE U. S. CHARGÉ D'AFFAIRES IN SPAIN
(WILLIAM CARMICHAEL) S. P.

NEW YORK, August 2, 1790.

DEAR SIR,—This letter will be delivered to you by Colonel Humphreys, whose character is so well known to you as to need no recommendations from me. The present appearances of war between our two neighbors Spain and England, cannot but excite all our attention. The part we are to act is uncertain, and will be difficult. The unsettled state of our

[1] At a later period, upon reviewing this opinion, the following note was appended by Jefferson: "Unless with the consent or default of the other contracting party. It may well be doubted, too, and perhaps denied that the treaty power can control a law. The question here proposed was then of the first impression. Subsequent investigations have proved that the contrary position is the more general truth."

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dispute with Spain, may give a turn to it very different from what we would wish. As it is important that you should be fully apprized of our way of thinking on this subject, I have sketched, in the enclosed paper,[1] general heads of consideration arising from present circumstances. These will be readily developed by your own reflections, and in conversations with Colonel Humphreys; who, possessing the sentiments of the executive on this subject, being well acquainted with the circumstances of the Western country in particular, and of the state of our affairs in general, comes to Madrid expressly for the purpose of giving you a thorough communication of them. He will, therefore, remain there as many days or weeks as may be necessary for this purpose. With this information, written and oral, you will be enabled to meet the minister in conversations on the subject of the navigation of the Mississippi, to which we wish you to lead his attention immediately. Impress him thoroughly with the necessity of an early, and even an immediate settlement of this matter, and of a return to the field of negotiation for this purpose; and though it must be done delicately, yet he must be made to understand unequivocally, that a resumption of the negotiation is not desired on our part, unless he can determine, in the first opening of it, to yield the immediate and full enjoyment of that navigation. (I say nothing of the claims of Spain to our territory north of the thirty-first degree, and east of the Mississippi. They never merited the respect of an an-

[1] See *infra* page 129.

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swer; and you know it has been admitted at Madrid, that they were not to be maintained.) It may be asked, what need of negotiation, if the navigation is to be ceded at all events? You know that the navigation cannot be practised without a port, where the sea and river vessels may meet and exchange loads, and where those employed about them may be safe and unmolested. The right to use a thing, comprehends a right to the means necessary to its use, and without which it would be useless. The fixing on a proper port, and the degree of freedom it is to enjoy in its operations, will require negotiation, and be governed by events. There is danger, indeed, that even the unavoidable delay of sending a negotiator here, may render the mission too late for the preservation of peace. It is impossible to answer for the forbearance of our western citizens. We endeavor to quiet them with the expectation of an attainment of their rights by peaceable means. But should they, in a moment of impatience, hazard others, there is no saying how far we may be led; for neither themselves nor their rights will ever be abandoned by us.

You will be pleased to observe, that we press these matters warmly and firmly, under this idea, that the war between Spain and Great Britain will be begun before you receive this; and such a moment must not be lost. But should an accommodation take place, we retain, indeed, the same object and the same resolutions unalterably; but your discretion will suggest, that in that event, they must be pressed more softly, and that patience and persuasion must

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temper your conferences, till either these may prevail, or some other circumstance turn up, which may enable us to use other means for the attainment of an object which we are determined, in the end, to obtain at every risk.

TO THE PRESIDENT D. S. MSS.

Friday, August 6, 1790.

Th Jefferson has the honor to inform the President that in a conversation with Mr Hawkins yesterday evening, it came out that he had seen M^c^Gillivray's letter to Govr Houston, & Houston's answer: he thinks they were dated the latter end of 1784. but is sure they were some time in the year preceding the treaty of Galphinton to which he was sent. He recites the substance and purport of M^c^Gilivray's letter but does not recollect that of Houston's. Previous to the treaty of Galphinton, some of the Indians disavowed to him that of Augusta, & declared the lands ceded were of those which belonged to the whole nation, & not to the lower creeks in particular. I am not certain whether he did not say this conversation was in 1784. but I am sure he repeated it as precedent to the treaty of Galphinton.

TO THE U. S. CHARGÉ D'AFFAIRES IN FRANCE (WILLIAM SHORT) S. P.

New York, August 10, 1790.

Dear Sir,—This letter, with the very confidential papers it encloses, will be delivered to you by Mr.

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Barrett with his own hands. If there be no war between Spain and England, they need to be known to yourself alone. But if that war be begun, or whenever it shall begin, we wish you to communicate them to the Marquis de La Fayette, on whose assistance we know we can count in matters which interest both our countries. He and you will consider how far the contents of these papers may be communicated to the Count de Montmorin, and his influence be asked with the court of Madrid. France will be called into the war, as an ally, and not on any pretence of the quarrel being in any degree her own. She may reasonably require then, that Spain should do everything which depends on her, to lessen the number of her enemies. She cannot doubt that we shall be of that number, if she does not yield our right to the common use of the Mississippi, and the means of using and securing it. You will observe, we state in general the necessity, not only of our having a port near the mouth of the river (without which we could make no use of the navigation at all) but of its being so well separated from the territories of Spain and her jurisdiction, as not to engender daily disputes and broils between us. It is certain, that if Spain were to retain any jurisdiction over our entrepôt, her officers would abuse that jurisdiction, and our people would abuse their privileges in it. Both parties must foresee this, and that it will end in war. Hence the necessity of a well-defined separation. Nature has decided what shall be the geography of that in the end, whatever it might be in the beginning, by cutting off from

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the adjacent countries of Florida and Louisiana, and enclosing between two of its channels, a long and narrow slip of land, called the Island of New Orleans. The idea of ceding this, could not be hazarded to Spain, in the first step; it would be too disagreeable at first view; because this island, with its town, constitutes, at present, their principal settlement in that part of their dominions, containing about ten thousand white inhabitants of every age and sex. Reason and events, however, may, by little and little, familiarize them to it. That we have a right to some spot as an entrepôt for our commerce, may be at once affirmed. The expediency, too, may be expressed, of so locating it as to cut off the source of future quarrels and wars. A disinterested eye, looking on a map, will remark how conveniently this tongue of land is formed for the purpose; the Iberville and Amit channel offering a good boundary and convenient outlet, on the one side, for Florida, and the main channel an equally good boundary and outlet, on the other side, for Louisiana; while the slip of land between, is almost entirely morass or sandbank; the whole of it lower than the water of the river, in its highest floods, and only its western margin (which is the highest ground) secured by banks and inhabited. I suppose this idea too much even for the Count de Montmorin at first, and that, therefore, you will find it prudent to urge, and get him to recommend to the Spanish court, only in general terms, "a port near the mouth of the river, with a circumjacent territory sufficient for its support, well defined, and extra-

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territorial to Spain," leaving the idea to future growth.

I enclose you the copy of a paper distributed by the Spanish commandant on the west side of the Mississippi, which may justify us to M. de Montmorin, for pushing this matter to an immediate conclusion. It cannot be expected we shall give Spain time, to be used by her for dismembering us.

It is proper to apprize you of a circumstance, which may show the expediency of being in some degree on your guard, even in your communications to the court of France. It is believed here, that the Count de Moustier, during his residence with us, conceived the project of again engaging France in a colony upon our continent, and that he directed his views to some of the country on the Mississippi, and obtained and communicated a good deal of matter on the subject to his court. He saw the immediate advantage of selling some yards of French cloths and silks to the inhabitants of New Orleans. But he did not take into account what it would cost France to nurse and protect a colony there, till it should be able to join its neighbors, or to stand by itself; and then what it would cost her to get rid of it. I hardly suspect that the court of France could be seduced by so partial a view of the subject as was presented to them, and I suspect it the less, since the National Assembly has constitutionally excluded conquest from the object of their government. It may be added, too, that the place being ours, their yards of cloth and silk would be as freely sold as if it were theirs.

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You will perceive by this letter and the papers it encloses, what part of the ideas of Count d'Estaing correspond with our views. The answer to him must be a compound of civility and reserve, expressing our thankfulness for his attentions, that we consider them as proofs of the continuance of his friendly dispositions, and that though it might be out of our system to implicate ourselves in trans-Atlantic guarantees, yet other parts of his plans are capable of being improved to the common benefit of the parties. Be so good as to say to him something of this kind verbally, and so as that the matter may be ended as between him and us.

On the whole, in the event of war, it is left to the judgment of the Marquis de La Fayette and yourself, how far you will develop the ideas now communicated to the Count de Montmorin, and how far you will suffer them to be developed to the Spanish court.

I enclose you a pamphlet by Hutchins for your further information on the subject of the Mississippi; and am, with sentiments of perfect esteem and attachment, dear Sir, your most obedient, and most humble servant.

TO THE U. S. SECRET AGENT J. MSS.
(COLONEL DAVID HUMPHREYS)

NEW YORK, August 11, 1790.

SIR,—The President having thought proper to confide several special matters in Europe to your

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care, it will be expedient that you take your passage in the first convenient vessel bound to the port of London.

When there, you will be pleased to deliver to Mr. G. Morris and to Mr. Johnson, the letters and papers you will have in charge for them, to communicate to us from thence any interesting public intelligence you may be able to obtain, and then to take as early a passage as possible to Lisbon.

At Lisbon, you will deliver the letter with which you are charged for the Chevalier Pinto, putting on it the address proper to his present situation. You know the contents of this letter, and will make it the subject of such conferences with him, as may be necessary to obtain our point of establishing there the diplomatic grade which alone coincides with our system, and of insuring its reception and treatment with the requisite respect. Communicate to us the result of your conferences, and then proceed to Madrid.

There you will deliver the letters and papers which you have in charge for Mr. Carmichael, the contents of all which are known to you. Be so good as to multiply, as much as possible, your conferences with him, in order to possess him fully of the special matters sketched out in those papers, and of the state of our affairs in general.

Your stay there will be as long as its object may require, only taking care to return to Lisbon by the time you may reasonably expect that our answers to your letters, to be written from Lisbon, may reach that place. This cannot be earlier than the first or

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second week of January. These answers will convey to you the President's further pleasure.

Through the whole of this business, it will be best that you avoid all suspicion of being on any public business. This need be known only to the Chevalier Pinto and Mr. Carmichael. The former need not know of your journey to Madrid, or if it be necessary, he may be made to understand that it is a journey of curiosity, to fill up the interval between writing your letters and receiving the answers. To every other person, it will be best that you appear as a private traveller.

The President of the United States allows you from this date, at the rate of two thousand two hundred and fifty dollars a year, for your services and expenses, and moreover, what you may incur for the postage of letters; until he shall otherwise order.

TO BENJAMIN SMITH BARTON J. MSS.

NEW YORK Aug. 12, 1790.

SIR,—I have been duly honored with yours of the 7th instant, and in order to answer it must enter into a detail of facts.

In the formation of the higher departments there were some endeavors in Congress to establish a separate minister for the domestic business. This was disapproved by a considerable majority of Congress, and they therefore united that with the foreign business under the department of the Secretary of State.—When I arrived here I found Mr. Alden

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at the head of the home office, & Mr. Remsen at that of the foreign office. Neither could descend to a secondary appointment, & yet they were each so well acquainted with their respective departments & the papers in them, that it was extremely desirable to keep both. On this ground, of their peculiar familiarity with the papers & proceedings of their respective offices, which made them necessary to me as indexes, I asked permission to appoint two chief clerks. The legislature received the proposition with some jealousy, lest it might be intended to bring forward again the plan of two departments, and tho' the bill past, it was after considerable delay, and being quite satisfied I had no other view than to be enabled to keep the two gentlemen so peculiarly familiar with the papers under their care. One of them chusing afterwards to engage in another line I could do nothing less, in return to the complaisance of the legislature, than declare that as the ground on which alone they were induced to allow the second office, was now removed, I considered the office as at an end, and that the arrangements should return to the order desired by the legislature: this declaration has been given to some applications already made for this office.

I should have had real pleasure, Sir, in serving you on this occasion, but the preceding detail of facts will serve to shew you that the appointment cannot be renewed. The testimony I have received would otherwise be quite sufficient to convince me that I could not fill the office better than by naming you, were it considered as now existing.

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TO THE U. S. INFORMAL AGENT IN GREAT BRITAIN (GOUVERNEUR MORRIS) S. P.

NEW YORK, August 12, 1790.

DEAR SIR,—Your letter of May the 29th to the President of the United States, has been duly received. You have placed their proposition of exchanging a minister on proper ground. It must certainly come from them, and come in unequivocal form. With those who respect their own dignity so much, ours must not be counted at naught. On their own proposal formally, to exchange a minister, we sent them one. They have taken no notice of that, and talk of agreeing to exchange one now, as if the idea were new. Besides, what they are saying to you, they are talking to us through Quebec; but so informally, that they may disavow it when they please. It would only oblige them to make the fortune of the poor Major, whom they would pretend to sacrifice. Through him, they talk of a minister, a treaty of commerce *and alliance*. If the object of the latter be honorable, it is useless; if dishonorable, inadmissible. These tamperings prove, they view a war as very possible; and some symptoms indicate designs against the Spanish possessions adjoining us. The consequences of their acquiring all the country on our frontier, from the St. Croix to the St. Mary's, are too obvious to you to need development. You will readily see the dangers which would then environ us. We wish you, therefore, to intimate to them that we cannot be indifferent to enterprises of this kind. That we should contemplate a change of neighbors with extreme uneasiness; and that a due

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balance on our borders is not less desirable to us, than a balance of power in Europe has always appeared to them. We wish to be neutral, and we will be so, *if they will execute the treaty fairly* and *attempt no conquests adjoining us*. The first condition is just; the second imposes no hardship on them. They cannot complain that the other dominions of Spain would be so narrow as not to leave them room enough for conquest. If the war takes place, we would really wish to be quieted on these two points, offering in return an honorable neutrality. More than this, they are not to expect. It will be proper that these ideas be conveyed in delicate and friendly terms; but that they be conveyed, if the war takes place; for it is in that case alone, and not till it be begun, that we should wish our dispositions to be known. But in no case, need they think of our accepting any equivalent for the posts.

HEADS OF CONSIDERATION ON THE NAVIGATION OF THE MISSISSIPPI, FOR MR CARMICHAEL [1]

[Aug. 22d, 1790.]

We have a *right* to the navigation of the Mississippi—1, by Nature; 2, by Treaty.

It is *necessary* to us. More than half the territory

[1] In the Jefferson MSS. is a first draft of this, which varies enough from the above to make comparison interesting. It is as follows:

Heads of Consideration on the Navigation of the Mississippi, for Mr Carmichael.

[2 August, 1790.]

We have a right to the Navig'n of the Missi.

1. by Nature.
2. by Treaty.

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of the United States is on the waters of that river. Two hundred thousand of our citizens are settled on them, of whom forty thousand bear arms. These have no other outlet for their tobacco, rice, corn, hemp, lumber, house timber, ship timber.

We have hitherto respected the indecision of Spain, because we wish peace;—because our western citizens have had vent at home for their productions.

A surplus of production begins now to demand

It is *necessary* to us
More than half the territory of the U. S. is on the waters of that river.
200,000 of their citizens are seated on them.
These have no other outlet for their tob°, rice, corn, hemp, lumber, house-timber, ship-timber, etc.
We have hitherto borne the indecision of Spain, Because we wish peace.
because our Western citizens have had vent at home for their productions.
A surplus of production begins now to demand foreign markets.
Whenever they shall say 'We cannot, we will not, be longer shut up,' the U. S. will soon be reduced to the following dilemma:
1. to force them to acquiescence.
2. to separate from them, rather than take part in a war against Spain.
3. or to preserve them in our Union, by joining them in the war.
The 1st is neither in our principles nor our power.
2. A multitude of reasons decide against the 2d.
One only shall be spoken out: the Nation that gives up half its territory, rather than engage in a just war to preserve it, will not keep the other half long.
3. the third is the only alternative we must necessarily adopt.
How are we to obtain that navigation?
A. By Force.
I. Acting separately.
that we can Effect this with certainty and promptitude all circumstances decide.
Obj. We cannot retain N. Orleans, for instance, were we to take it.
Ans. A moderate force may be so secured so as to hold out till succoured. Our succours can be prompt and effectual.
Suppose after taking it, we withdraw our force.

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foreign markets. Whenever they shall say, "We cannot, we will not, be longer shut up," the United States will be reduced to the following dilemma: 1. To force them to acquiescence. 2. To separate from them, rather than take part in a war against Spain. 3. Or to preserve them in our Union, by joining them in the war.

The 1st is neither in our principles, nor in our power. 2d. A multitude of reasons decide against the second.

If Spain retakes it by an expedition, we can recover it by a counter-exped'n, and so, as often as the case shall happen.

Their expeditions will be slow, expensive, and lead to catastrophe.

Ours sudden, economical, and a check can have no consequences.

We should associate the country to our union, the inhabitants wish this.

they are not disposed to be of the Spanish government.

It is idle in Spain to suppose our Western habitants will submit to their gov'm't.

they could be quiet but a short time under a gov'm't so repugnant to their feelings. Were they to come under it for present purposes, it w^d be with a view to throw it off soon. Should they remain they would communicate a spirit of independence to those with whom they should be mixed.

II. Acting in conjunction with Gr. Br. with a view to partition, the Floridas (includ^g N. Orleans) would be assigned to us. Louisiana (or all the country on the West^n waters of ye Missi.) to them.

We confess that such an Alliance is not what we would wish; because it may eventually lead us into embarrassing situations as to our best friend, and put the power of two n'bors into ye hands of one.

Ld Lansdowne has declared he gave the Floridas to Spain rather than to the U. S. as a bone of discord with the H. of Bourbon, and of reunion with Gr. Br. Connolly's attempt (as well as other facts) proves they keep it in view.

B. By Negociation.

I. What must Spain do of *necessity*?

The conduct of Spain has proved the occlusion of the Missi. is system with her; if she opens it now, it will be because forced by imperious circumstances. She will consequently shut it again when these circumstances cease.

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It may suffice to speak out one: were we to give up half our territory rather than engage in a just war to preserve it, we should not keep the other half long. 3d. The third is the alternative we must adopt.

How are we to obtain that navigation?

(A.) By *Force*.

I. Acting *separately*. That we can effect this

Treaty will be no obstacle.
irregularities, real and pretended, in our navigators, will furnish colour enough, perpetual broils, and finally war will ensue.
prudence, and even necessity, imposes on us the law of settling the matter now, *finally*, and not by *halves*. With experience of the past, and prospect of the future, it w^d be imbecility in us to accept ye naked navigation. With that, we must have what will secure its continuance: that is, a port near the mouth, to receive our vessels, and protect the navigation.

But even this will not secure the Floridas and Louisiana against Gr. Brit.
if we are neutral, she will wrest those possessions from Spain.
the inhabitants (French, English, Scotch, Americans) would prefer Engl^d to Spain.

II. What then had Spain better do of *choice*?
Cede to us all territory on our side the Mississippi.
on condition that we guarantee all her poss'ns on the western waters of that river, she agreeing further to subsidize us, if the guarantee brings us into war.

Should Gr. Br. possess herself of the Floridas and Louisiana, her governing principles are Conquest, Colonization, Commerce, Monopoly.
She will establish powerful colonies in them.
these can be poured into the gulph of Mexico, for any sudden enterprise there.
or invade Mexico their next neighbor by land; whilst a fleet cooperates along shore, and cuts off relief.
and proceed successively from colony to colony.

With respect to us, if Gr. Br. establishes herself on our whole land board, our lot will be
bloody and eternal war
or indissoluble confederacy.
Which ought we to choose?

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with certainty and promptitude, circumstances decide.

Objection. We cannot retain New Orleans, for instance, were we to take it.

Answer. A moderate force may be so secured, as to hold out till succored. Our succors can be prompt and effectual. Suppose, after taking it, we withdraw our force. If Spain retakes it by an expedition, we can recover it

What will be the lot of the Span. colonies in the jaws of such a confederacy?

What will secure the Ocean against Monopoly?

Safer for Spain that we should be her neighbor, than England.

Conquest not in our principles: inconsistent with our govm't.

Not our interest to cross the Mississippi for ages.

And will never be our interest to remain united with those who do.

Intermediate chances save the trouble of calculating so far forward.

Consequences of this cession, and guarantee.

1. Every subject of difference will be removed from between Spain and the U. S.
2. Our interest wᵘˡ be strongly engaged in her retaining her American possessions.
3. Spain will be quieted as to Louisiana and her territories west of that.
4. She may employ her whole force in defence of her islands and Southern possessions.
5. If we preserve our neutrality, it will be a very partial one to her.
6. If we are forced into the war, it will be, as we wish, on the side of the H. of Bourbon.
7. Our privateers will commit formidable depred'n on yᵉ Brit. trade, and occupy much of their force.
8. By withold'g supplies of provision, as well as by concurring in exped'ns, yᵉ Brit islᵈˢ will be in imminent danger.
9. Their expences of precaution, both for their continental and insular poss'ns will be so augmented, as to give a hope of running their credit down.

In fine, for a narrow strip of barren, detached, and expensive country, Spain secures the rest of her territory, and makes an ally where she might have a dangerous enemy.

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by a counter-expedition, and so as often as the case shall happen. Their expedition will be slow, expensive, and lead to catastrophes. Ours sudden, economical, and a check can have no consequences. We should associate the country to our Union. The inhabitants wish this. They are not disposed to be of the Spanish government. It is idle in Spain to suppose our Western inhabitants will unite with them. They could be quiet but a short time under a goverment so repugnant to their feelings. Were they to come under it for present purposes, it would be with a view to throw it off soon. Should they remain, they would communicate a spirit of independence to those with whom they should be mixed.

II. Acting in *conjunction* with Great Britain, and with a view to partition. The Floridas (including New Orleans) would be assigned to us. Louisiana (or all the Western waters of the Mississippi) to them. We confess that such an alliance is not what we would wish. Because it may eventually lead us into embarrassing situations with our best friend, and put the power of two neighbors into the hands of one. L. Lansdowne has declared he gave the Floridas to Spain rather than the United States as a bone of discord with the House of Bourbon, and of re-union with Great Britain. Connolly's attempt (as well as other facts) proves they keep it in view.

(B.) By *Negotiation.*

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I. What must Spain do of *necessity*. The conduct of Spain has proved that the occlusion of the Mississippi is system with her. If she opens it now, it will be because forced by imperious circumstances. She will consequently shut it again when these circumstances cease. Treaty will be no obstacle. Irregularities, real or pretended, in our navigators, will furnish color enough. Perpetual broils, and finally war will ensue. Prudence and even necessity, imposes on us the law of settling the matter now, *finally*, and not by *halves*. With experience of the past and prospect of the future, it would be imbecility in us to accept the naked navigation. With that, we must have what is necessary to its use, and without which it would be useless to secure its continuance; that is, a port near the mouth to receive our vessels and protect the navigation. But even this will not secure the Floridas and Louisiana against Great Britain. If we are neutral, she will wrest those possessions from Spain. The inhabitants (French, English, Scotch, American) would prefer England to Spain.

II. What then had Spain better do of *choice*? Cede to us all the territory on our side of the Mississippi: on condition that we guarantee all her possessions on the Western waters of that river, she agreeing further, to subsidize us if the guarantee brings us into the war.

Should Great Britain possess herself of the

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Floridas and Louisiana, her governing principles are conquest, colonization, commerce, monopoly. She will establish powerful colonies in them. These can be poured into the Gulf of Mexico for any sudden enterprise there, or invade Mexico, their next neighbor, by land. Whilst a fleet co-operates along shore, and cuts off relief. And proceed successively from colony to colony.

With respect to us, if Great Britain establishes herself on our whole land-board our lot will be bloody and eternal war, or indissoluble confederacy. Which ought we to choose? What will be the lot of the Spanish colonies in the jaws of such a confederacy? What will secure the ocean against the monopoly?

Safer for Spain that we should be her neighbor, than England. Conquest not in our principles: inconsistent with our government. Not our interest to cross the Mississippi for ages. And will never be our interest to remain united with those who do. Intermediate chances save the trouble of calculating so far forward.

Consequences of this cession, and guarantee: 1. Every subject of difference will be removed from between Spain and the United States. 2. Our interest will be strongly engaged in her retaining her American possessions. 3. Spain will be quieted as to Louisiana, and her territories west of that. 4. She may employ her whole force in defence of her

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islands and Southern possessions. 5. If we preserve our neutrality, it will be a very partial one to her. 6. If we are forced into the war, it will be, as we wish, on the side of the House of Bourbon. 7. Her privateers will commit formidable depredation on the British trade, and occupy much of their force. 8. By withholding supplies of provision, as well as by concurring in expeditions, the British islands will be in imminent danger. 9. Their expenses of precaution, both for their continental and insular possessions, will be so augmented as to give a hope of running their credit down. In fine, for a narrow slip of barren, detached and expensive country, Spain secures the rest of her territory, and makes an ally where she might have a dangerous enemy.

OPINION ON FOREIGN DEBT

[August 26. 1790.]

Opinion respecting our foreign debt.

On consideration of the letter of our banker, of January 25th, 1790, the Secretary of the Treasury's answer to it, and the draught of powers and instructions to him, I am of opinion, as I always have been, that the purchase of our debt to France by private speculators, would have been an operation extremely injurious to our credit; and that the consequence foreseen by our banker, that the purchasers would have been obliged, in order to make good their

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payments, to deluge the markets of Amsterdam with American paper of all sorts, and to sell it at any price, was a probable one. And the more so, as we know that the particular individuals who were engaged in that speculation, possess no means of their own adequate to the payments they would have had to make. While we must not doubt that these motives, together with a proper regard for the credit of the United States, had real and full weight with our bankers, towards inducing them to counterwork these private speculations; yet, to ascribe their industry in this business wholly to these motives, might lead to a too great and dangerous confidence in them. It was obviously their interest to defeat all such speculations, because they tended to take out of their hands, or at least to divide with them, the profits of the great operation of transferring the French debt to Amsterdam, an object of first-rate magnitude to them, and on the undivided enjoyments of which they might count, if private speculators could be baffled. It has been a contest of dexterity and cunning, in which our champions have obtained the victory. The manœuvre of opening a loan of three millions of florins, has, on the whole, been useful to the United States, and though unauthorized, I think should be confirmed. The measure proposed by the Secretary of the Treasury, of sending a superintendent of their future operations, will effectually prevent their doing the like again, and the funding laws leave no danger that such an expedient might at any future time be useful to us.

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The report of the Secretary of the Treasury and the draught of instructions, present this plan to view: First, to borrow on the best terms we can, not exceeding those limited by the law, such a sum as may answer all demands of principal or interest of the foreign debts, due, or to become due before the end of 1791. (This I think he supposes will be about three and a half millions of dollars.) Second, to consider two of the three millions of florins already borrowed by our bankers as, so far, an execution of this operation; consequently, there will remain but about two and a half millions of dollars to be borrowed on the old terms. Third, to borrow no more as yet, towards completing the transfer of the French debt to Amsterdam, unless we can do it on more advantageous terms. Fourth, to consider the third million of florins already borrowed by our bankers, as, so far, an execution of the powers given the President to borrow two millions of dollars, by the act of the 12th of August. The whole of this appears to me to be wise. If the third million be employed in buying up our *foreign paper*, on the exchange of Amsterdam, by creating a demand for that species of paper, it will excite a cupidity in the monied men to obtain more of it by new loans, and consequently enable us to borrow more and on lower terms. The saving of interest, too, on the sum so to be bought, may be applied in buying up more principal, and thereby keep this salutary operation going.

I would only take the liberty of suggesting the insertion of some such clause as the following, into

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the instructions: "The agents to be employed shall never open a loan for more than one million of dollars at a time, nor open a new loan till the preceding one has been filled, and expressly approved by the President of the United States." A new man, alighting on the exchange of Amsterdam, with powers to borrow twelve millions of dollars, will be immediately beset with bankers and brokers, who will pour into his ear, from the most unsuspected quarters, such informations and suspicions as may lead him exactly into their snares. So wonderfully dexterous are they in wrapping up and complicating their propositions, they will make it evident, even to a clear-headed man, (not in the habit of this business,) that two and two make five. The agent, therefore, should be guarded, even against himself, by putting it out of his power to extend the effect of any erroneous calculation beyond one million of dollars. Were he able, under a delusive calculation, to commit such a sum as twelve millions of dollars, what would be said of the government? Our bankers told me themselves that they would not choose, in the conduct of this great loan, to open for more than two or three millions of florins at a time, and certainly never for more than five. By contracting for only one million of dollars at a time, the agent will have frequent occasions of trying to better the terms. I dare say that this caution, though not expressed in the instructions, is intended by the Secretary of the Treasury to be carried into their execution. But, perhaps, it will be desirable for the President, that his sense of it also should be expressed in writing.

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TO THE U. S. CHARGÉ D'AFFAIRES IN FRANCE (WILLIAM SHORT)

S. P.

NEW YORK, August 26. 1790.

DEAR SIR,—My last letters to you have been of the 26th of July, and 10th instant. Yours of May the 16th, No. 31, has come to hand.

I enclose you sundry papers, by which you will perceive, that the expression in the eleventh article of our treaty of amity and commerce with France, viz. "That the subjects of the United States shall not be reputed Aubaines *in France*, and consequently shall be exempted from the Droit d'Aubaine, or other similar duty, under what name soever," has been construed so rigorously to the letter, as to consider us as Aubaines in the *colonies* of France. Our intercourse with those colonies is so great, that frequent and important losses will accrue to individuals, if this construction be continued. The death of the master or supercargo of a vessel, rendered a more common event by the unhealthiness of the climate, throws all the property which was either his, or under his care, into contest. I presume that the enlightened Assembly now engaged in reforming the remains of feudal abuse among them, will not leave so inhospitable an one as the Droit d'Aubaine existing in France, or any of its dominions. If this may be hoped, it will be better that you should not trouble the minister with any application for its abolition in the colonies as to us. This would be erecting into a special favor to us, the extinction of a general abuse, which will, I presume, extinguish of itself. Only be so good as to see, that in abolishing this

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odious law in France, its abolition in the colonies also, be not omitted by mere oversight; but if, contrary to expectations, this fragment of barbarism be suffered to remain, then it will become necessary that you bring forward the enclosed case, and press a liberal and just exposition of our treaty, so as to relieve our citizens from this species of risk and ruin hereafter. Supposing the matter to rest on the eleventh article only, it is inconceivable, that he, who with respect to his personal goods is as a native citizen in the mother country, should be deemed a foreigner in its colonies. Accordingly, you will perceive by the opinions of Dr. Franklin and Dr. Lee, two of our ministers who negotiated and signed the treaty, that they considered the rights stipulated for us *in France*, were meant to exist in all the *dominions of France*.

Considering this question under the second article of the treaty also, we are exempted from the Droit d'Aubaine in all the Dominions of France; for by that article, no particular favor is to be granted to any other nation, which shall not immediately become common to the other party. Now, by the forty-fourth article of the treaty between France and England, which was subsequent to ours, it is stipulated, "que dans tout ce qui concerne—*les successions des biens mobiliers*—les sujets des deux hautes parties contractantes auront *dans les États respectifs* les mêmes privileges, libertés et droits, que la nation la plus favorisée." This gave to the English the general abolition of the Droit d'Aubaine, enjoyed by the Hollanders under the first article of their

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treaty with France, of July the 23d, 1773, which is in these words. "Les sujets des E. G. des P. U. des pays-bas ne seront point assujettis au Droit d'Aubaine dans les États de S. M. T. C." This favor then, being granted to the English subsequent to our treaty, we become entitled to it of course by the article in question. I have it not in my power at this moment, to turn to the treaty between France and Russia, which was also posterior to ours. If by that, the Russians are exempted from the Droit d'Aubaine, "*dans les États de* S. M. T. C." it is a ground the more for our claiming the exemption. To these, you will be pleased to add such other considerations of reason, friendship, hospitality and reciprocity, as will readily occur to yourself.

About two or three weeks ago, a Mr. Campbell called on me, and introduced himself by observing that his situation was an awkward one, that he had come from Denmark with an assurance of being employed here in a public character, that he was actually in service, though un-announced. He repeated conversations which had passed between Count Bernstorff and him, and asked me when a minister would be appointed to that court, or a character sent to negotiate a treaty of commerce; he had not the scrip of a pen to authenticate himself, however informally. I told him our government had not yet had time to settle a plan of foreign arrangements; that with respect to Denmark particularly, I might safely express to him those sentiments of friendship which our government entertained for that country, and assurances that the King's subjects would

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always meet with favor and protection here; and in general, I said to him those things which being true, might be said to anybody. You can perhaps learn something of him from the Baron de Blome. If he be an unauthorized man, it would be well it should be known here, as the respect which our citizens might entertain, and the credit they might give to any person supposed to be honored by the King's appointment, might lead them into embarrassment.

You know the situation of the new loan of three millions of florins going on at Amsterdam. About one half of this is destined for an immediate payment to France; but advantage may be gained by judiciously timing the payment. The French colonies will doubtless claim in their new constitution, a right to receive the necessaries of life from whomsoever will deliver them cheapest; to wit, grain, flour, live stock, salted fish, and other salted provisions. It would be well that you should confer with their deputies, guardedly, and urge them to this demand, if they need urging. The justice of the National Assembly will probably dispose them to grant it, and the clamors of the Bordeaux merchants may be silenced by the clamors and arms of the colonies. It may co-operate with the influence of the colonies, if favorable dispositions towards us can be excited in the moment of discussing this point. It will therefore be left to you to say when the payment shall be made, in confidence that you will so time it, as to forward this great object; and when you make this payment, you may increase its effect, by adding assurances to the minister, that measures

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have been taken which will enable us to pay up, within a very short time, all arrears of principal and interest now due; and further, that Congress has fully authorized our government to go on and pay even the balance not yet due, which we mean to do, if that money can be borrowed on reasonable terms; and that favorable arrangements of commerce between us and their colonies, might dispose us to effect that payment with less regard to terms. You will, of course, find excuses for not paying the money which is ready and put under your orders, till you see that the moment has arrived when the emotions it may excite, may give a decisive cast to the demands of the colonies.

TO THE SECRETARY OF WAR (HENRY KNOX) J. MSS.

NEW YORK Aug. 26. 1790.

DEAR SIR,—On the hasty view which the shortness of time permits me to take of the Treaty of Hopewell, the act of cession of N. Carolina & the act of acceptance by Congress, I hazard the following sentiments:

Were the treaty of Hopewell, and the act of acceptance of Congress to stand in any point in direct opposition to each other, I should consider the act of acceptance as void in that point; because the treaty is a law made by two parties, and not revocable by one of the parties either acting alone or in conjunction with a third party. If we consider the acceptance as a legislative act of Congress, it

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is the act of one party only; if we consider it as a treaty between Congress & N. Carolina, it is but a subsequent treaty with another power, & cannot make void a preceding one, with a different power.

But I see no such opposition between these two instruments. The Cherokees were entitled to the sole occupation of the lands within the limits guaranteed to them. The State of North Carolina, according to the jus gentium established for America by universal usage, had only a right of preemption of these lands against all other nations. It could convey then to it's citizens only this right of preemption, and the right of occupation could not be united to it until obtained by the U. S. from the Cherokees. The act of cession of N. Carolina only preserves the rights of it's citizens, in the same state as they would have been, *had that act never been passed.* It does not make imperfect titles, perfect; but only prevents their being made worse. Congress, by their act, accept on these conditions. The claimants of N. C. then and also the Cherokees are exactly where they would have been, had neither the act of cession nor that of acceptance been ever made; that is, the latter possess the right of occupation, & the former the right of preemption.

Tho' these deductions seem clear enough, yet the question would be a disagreeable one between the general government, a particular government, & individuals, and it would seem very desireable to draw all the claims of preemption within a certain limit, by commuting for those out of it, and then to purchase of the Cherokees the right of occupation.

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OPINION ON COURSE OF UNITED STATES TOWARDS GREAT BRITAIN AND SPAIN [1]

[Aug. 28, 1790]

Opinion upon the question what the answer of the President should be in case Lord Dorchester should apply for permission to march troops through the territory of the United States, from Detroit to the Mississippi.

I am so deeply impressed with the magnitude of the dangers which will attend our government, if Louisiana and the Floridas be added to the British empire, that, in my opinion, we ought to make ourselves parties in the *general war* expected to take place, should this be the only means of preventing the calamity.

But I think we should defer this step as long as

[1] Washington had written Jefferson:

"UNITED STATES, August 27, 1790.

"Provided the dispute between Great Britain and Spain should come to the decision of arms, from a variety of circumstances (individually unimportant and inconclusive, but very much the reverse when compared and combined), there is no doubt in my mind, that New Orleans, and the Spanish posts above it on the Mississippi, will be among the first attempts of the former; and that the reduction of them will be undertaken by a combined operation from Detroit.

"The *consequences* of having so formidable and enterprizing a people as the British on both our flanks and rear, with their navy in front, as they respect our western settlements which may be seduced thereby, as they regard the security of the Union and its commerce with the West Indies, are too obvious to need enumeration.

"What then should be the answer of the Executive of the United States to Lord Dorchester, in case he should apply for permission to march troops through the territory of the said States from Detroit to the Mississippi?

"What notice ought to be taken of the measure, if it should be undertaken without leave, which is the most probable proceeding of the two?

"The opinion of the Secretary of State is requested in writing upon the above statements."

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possible; because war is full of chances, which may relieve us from the necessity of interfering; and if necessary, still the later we interfere, the better we shall be prepared.

It is often indeed more easy to prevent the capture of a place, than to retake it. Should it be so in the case in question, the difference between the two operations of preventing and retaking, will not be so costly as two, three, or four years more of war.

So that I am for preserving neutrality as long, and entering into the war as late, as possible.

If this be the best course, it decides, in a good degree, what should be our conduct, if the British ask leave to march troops through our territory, or march them without leave.

It is well enough agreed, in the laws of nations, that for a neutral power to give or refuse permission to the troops of either belligerent party to pass through their territory, is no breach of neutrality, provided the same refusal or permission be extended to the other party.

If we give leave of passage then to the British troops, Spain will have no just cause of complaint against us, provided we extend the same leave to her when demanded.

If we refuse, (as indeed we have a right to do,) and the troops should pass notwithstanding, of which there can be little doubt, we shall stand committed. For either we must enter immediately into the war, or pocket an acknowledged insult in the face of the world; and one insult pocketed soon produces another.

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There is indeed a middle course, which I should be inclined to prefer; that is, to avoid giving any answer. They will proceed notwithstanding, but to do this under our silence, will admit of palliation, and produce apologies, from military necessity; and will leave us free to pass it over without dishonor, or to make it a handle of quarrel hereafter, if we should have use for it as such. But, if we are obliged to give an answer, I think the occasion not such as should induce us to hazard that answer which might commit us to the war at so early a stage of it; and therefore that the passage should be permitted.

If they should pass without having asked leave, I should be for expressing our dissatisfaction to the British court, and keeping alive an altercation on the subject, till events should decide whether it is most expedient to accept their apologies, or profit of the aggression as a cause of war.

OPINION ON ST. CLAIR EXPEDITION J. MSS.

[August 29, 1790.]

Opinion on the question whether it will be expedient to notify to Lord Dorchester the real object of the expedition preparing by Governor St. Clair.

On considering more fully the question whether it will be expedient to notify to Lord Dorchester the real object of the expedition preparing by Governor St. Clair, I still think it will not be expedient. For, if the notification be early, he will get the Indians out of the way, and defeat our object. If it be so late as not to leave him time to withdraw them

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before our stroke be struck, it will then be so late also as not to leave him time to withdraw any secret aids he may have sent them. And the notification will betray to him that he may go on without fear in his expedition against the Spaniards, and for which he may yet have sufficient time after our expedition is over. On the other hand, if he should suspect our preparations are to prevent his passing our territory, these suspicions may induce him to decline his expedition, as, even should he think he could either force or steal a passage, he would not divide his troops, leaving (as he would suppose) an enemy between them able to take those he should leave, and cut off the return of those he should carry. These suspicions, too, would mislead both him and the Indians, and so enable us to take the latter more completely by surprise, and prevent him from sending secret aid to those whom he would not suppose the objects of the enterprise; thus effecting a double purpose of preventing his enterprise, and securing our own. Might it not even be expedient, with a view to deter his enterprise, to instruct Governor St. Clair either to continue his pursuit of the Indians till the season be too far advanced for Lord Dorchester to move; or, on disbanding his militia, to give them general orders (which might reach the ears of Lord Dorchester) to be ready to assemble at a moment's warning, though no such assembly be really intended?

Always taking care neither to say nor do, against their passage, what might directly commit either our peace or honor.

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TO ALEXANDER DONALD J. MSS.

NEW YORK Aug. 29. 1790.

DEAR SIR,—Your favor of July 2. is now before me. The consulates of the W. Indies had been already filled. Mr. Braxton's name however shall be kept on the list of candidates, and all shall be done for him which can be justly done, that is to say, between equal competitors your recommendation shall turn the scale in his favor as far as shall depend on me. The suggestion for your other friend was also too late. Mr Joshua Johnson had been already decided on by the President. I will continue my attentions to Mr B's affair. The papers have not been returned to me, which is of good augury. The President sets out tomorrow for Virginia. I shall do the same the next day. He will return to Philadelphia in November, I in October. In the mean time it is expected the flames of war will be kindled between our two neighbors. Since it is so decreed by fate, we have only to pray their souldiers may eat a great deal. Our crops of wheat are good in quantity & quality, & those of corn very promising. So far also this (I hope our last) crop of tobacco looks well. Little will be done in that way the next year, & less and less every year after.

TO WILLIAM SHORT J. MSS.

PHILADELPHIA Sep. 6. 1790.

DEAR SIR,—I am here on my way to Virginia, to which place I set out tomorrow. The President left

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this morning on his way to Mount Vernon. He engaged me some time ago to get him some wines from France, to wit, 40 dozen of Champagne, 30 doz. of Sauterne, 20 doz. of Bordeaux de Segur, and 10 doz. of Frontignan, and he took a note of their prices in order to furnish me with a bill of exchange sufficient to cover the costs & charges. In the multiplicity of his business before his departure he has forgot to do this: and it remains that we do not permit him to be disappointed of his wine by this omission. But how to do it? For the amount of the whole I suppose will be 3000.$ and the being obliged to set up a house in New York, then to abandon it & remove here, has really put me out of condition to advance such a sum here. I think however it can be done, without incommoding you by your drawing on the bankers in Amsterdam. On the President's return here (about the 1st of December) bills shall be remitted you, and by using these for your own purposes instead of making new draughts for your salary on the bankers, all will stand right without any special mention in the public accounts. I will make any necessary explanations at the Treasury, should any be necessary.

I write for wines for my own use at the same time. These will amount to about 550. livres. I have sent out to seek for a bill of exchange to that amount. If it can be got today I will inclose it herein. If not, I will charge the person with whom I leave the present letter not to send it off till he has got such a bill and to inclose one herewith, and forward a duplicate by some other opportunity. I leave the letter to

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Fenwick open, to the end that you may see the arrangements I take to leave you no other trouble than to forward it to him & to let him know how he shall be furnished with money to pay for the wines. The bill for my part shall be made paiable to you.

The new constitution of this State has passed. The chair of government was to have been disputed between Morris & Mifflin, but the former has declined, and his friends set up Sinclair in opposition to Mifflin.

P. S. I am excessively anxious for the success of your mission to Amsterdam, that the business may be done, & so well done as to place you advantageously in the public view.

TO WILLIAM SHORT J. MSS.

MONTICELLO Sep. 30. 1790.

DEAR SIR,—I wrote you last from Philadelphia. Your public letter of June 29, and private of June 14 & 29 are delivered to me here. My several letters, private, will have left me little to add on the subject of your stay in Europe. One circumstance only in your letters must be corrected, that is, your idea of my influence in the foreign affairs. You have forgotten your countrymen altogether, as well as the nature of our government, which renders it's heads too responsible to permit them to resign the direction of affairs to those under them. The public would not be satisfied with that kind of resignation, & be assured it does not exist, & consequently that your

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destination does not depend on me. I think it possible that it will be established into a maxim of the new government to discontinue its foreign servants after a certain time of absence from their own country, because they lose in time that sufficient degree of intimacy with it's circumstances which alone can enable them to know & pursue it's interests. Seven years have been talked of. Be assured it is for your happiness & success to return. Every day increases your attachment to Europe & renders your future reconcilement to your own country more desperate: and you must run the career of public office here if you mean to stand on high & firm ground hereafter. Were you here now, you would be put into the Senate of Congress in the place of Grayson whose successor is to be chosen next month (for the late appointment was only for the fragment of his time which remained). There would scarcely be a dissenting vote to your appointment. But it is too late for that. Monroe will be pressed into the service, really against his will. But, two years hence will come on another election in the place of R. H. L. who will unquestionably be dropped. If you were to be here a few months before, I would forfeit every thing if you were not elected. It will be for 6 years, and is the most honorable & independent station in our government, one where you can peculiarly raise yourself in the public estimation. I cannot then but recommend it to you to have this in your view. I do not exactly see to what your late mission to Amsterdam may lead. Either to nothing, or something infirm, and by which you ought not to suffer yourself to be

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led on to the loss of an appointment here which will not recur for years, & never under such certainty. Your compeer in a neighboring kingdom is a proof of the necessity of refreshing his acquaintance with his own country, and will do wisely if he does as Bourgoin announced to you.

I know not what to do in the case of Tolozon & Baqueville. [?] Indeed I can do nothing till I see the President. They must not lose their perquisite; it is a part of their livelihood. But I think that delicacy should yield to the inflexibility of our constitution. Assure them of my friendly recollection of their attentions, and my resolution that some how or other they must accept the usual present. I will write further after having consulted the President, whom I shall not see however till December. The house at Paris will certainly not be taken by the public for the use of their legation. You will have seen that by the new arrangement, that article will be at their own charge. Very possibly, and very probably, my successor may take it. Be that as it may, I have nothing to do with it after the expiration of six months from the day of the notification. It is well known to M. de Langeac, and to M. Perrier, the Notary that the notification I had given of determining the lease was to be void, and the lease to go on as if nothing had happened except as to the single circumstance of an abatement of the rent, which was therefore provided by a kind of marginal note, and no new lease. They may call it prorogation or what they please,—no new commencement was meant. Besides if it had been an absolutely new lease, I was

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not obliged to keep it one day. I had exactly the same kind of lease, with the same condition from Gueraud for the house in Tete-bout. I entered it Oct. 16. 1784 and determined the lease March 10, 1786, by a notification given Sep. 10, 1785. Gueraud was sufficiently litigious & desirous to continue the lease, but knew he could not. The objection too that it must be given up at no other time but the beginning of a term is contrary to the express letter of the lease. I gave up Gueraud's house the 10th of March: & my notification to the Count de Langeac in Oct. 1788 was that his lease should finish Apr 16, 1789. Both admitted my right to do so & accepted the notification. If Langeac & his notary Perrier (for I trusted to his notary because he had a candid appearance) have used words of a contrary import, it is one of those cheats against which the diplomatic indemnities were meant to be a protection. Foreign ministers are not bound to an acquaintance with the laws of the land. They are priviledged by their ignorance of them. They are bound by the laws of natural justice only. These are in my favor, be the laws of the land & it's forms what they will. I shall fulfil substantially my real engagement with the Count de Langeac and will certainly disregard the snares of formality in which they meant to take me. Give up the house at all events on the day six months from the notification.—I am really sorry Petit does not come. I am sure he will be disappointed in the expectation of employment from my successor. Besides that it will be some time in the next year before he can go. Should he be a married man, as

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all Americans are, his wife will not employ a maitre d'hotel who cannot speak English, if she employs one at all. I still wish him to come. If he will not, I think Mad^me^ de Corny, when she reformed her house, parted with her maitre d'hotel, and with great reluctance, and that she speaks of him to me in very high terms. I wish you would enquire about him, and barely sound him to see if he will come on moderate wages, & having his passage paid. But do not engage him till I write from Philadelphia where perhaps I may be able to get one. Your brother did not come to New York. I know he was well when we last heard from Kentucky. Remember me to all my friends but most particularly those of the hotels de la Fayette, de la Rochefoucault, de Tessí, de Corny, the two Abbés, & all others as if named. I have only room left to assure you of the sincere esteem & attachment with which I am my dear Sir Your affectionate friend & serv^t^

TO ZACHARIAH JOHNSON J. MSS.

MONTICELLO Octob. 7, 1790.

DEAR SIR,—As the Assembly will soon meet, I presume you will be passing down to it a few days before. I shall be at home at that time, and will always be glad to see you here, when I am here: but particularly I wish it at this time, as it is highly interesting to our country that it should take up a particular matter now in it's power, and which never will be so again.[1] This subject can only be opened in

[1] Probably a reference to a new constitution for Virginia.

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private conference. Knowing the weight you have justly acquired with our public councils, & your zeal to promote the public interest, I have taken the liberty of asking to see you on your way down. My house will be a convenient stage for you the first day, and if you can have time to tarry a day with me, it will be very desireable to me, & I trust not unfruitful for our State in general & our particular part of it.

TO FRANCIS KINLOCH J. MSS.

PHILADELPHIA, NOV. 26, 1790.

DEAR SIR,—Your favor of Apr. 26. 1789. did not come to my hands till the 4th of the last month when it found me on my way to Virginia. It should not otherwise have been so long unanswered. I am certainly flattered by the approbation you are so good as to express of the *Notes on Virginia*. The passage relative to the English, which has excited disagreeable sensations in your mind, is accounted for by observing that it was written during the war, while they were committing depredations in my own country and on my own property never practised by a civilized nation. Perhaps their conduct and dispositions towards us since the war have not been as well calculated as they might have been to excite more favorable dispositions on our part. Still as a political man they shall never find any passion in me either for or against them. Whenever their avarice of commerce will let them meet us fairly half way, I should meet them with satisfaction, be-

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cause it would be for our benefit; but I mistake their character if they do this under present circumstances.

The rumours of war seem to pass away. Such an event might have produced to us some advantages; but it might also have exposed us to dangers; and on the whole I think a general peace more desireable. Be so good as to present my respects to Mrs. Kinloch & to be assured of the esteem & respect with which I am dear Sir your most obed^{t} & most humble servant.

TO THE U. S. INFORMAL AGENT IN GREAT BRITAIN (GOUVERNEUR MORRIS) S. P.

PHILADELPHIA, NOV. 26. 1790.

DEAR SIR,—I have yet to acknowledge the receipt of your two favors of Apr. 10. & July 7. By the latter it would seem as if you had written an intermediate one which has never come to hand; and the letter of July 7. itself was not received till the 14th of October, while I was in Virginia from which I am but just returned. The President is not yet returned, tho' expected to-morrow. The Declaration & Counterdeclaration established with us a full expectation that peace would be continued: perhaps this is still the most rational opinion, tho' the *English* papers continue to talk of preparations for war. That such an event would have ensured good prices for our produce, and so far have been advantageous, is probable. But it would have exposed us to risks also, which are better deferred, for some years at least. It is not to be expected that our system of

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finance has met your approbation in all it's parts. It has excited even here great opposition; and more especially that part of it which transferred the state debts to the general government. The states of Virginia & N. Carolina are peculiarly dissatisfied with this measure. I believe however that it is harped on by many to mask their disaffection to the government on other grounds. It's great foe in Virginia is an implacable one.[1] He avows it himself, but does not avow all his motives for it. The measures and tone of the government threaten abortion to some of his speculations; most particularly to that of the Yazoo territory. But it is too well nerved to be overawed by individual opposition. It is proposed to provide additional funds, to meet the additional debt, by a tax on spirituous liquors, foreign and home-made, so that the whole interest will be paid by taxes on consumption. If a sufficiency can now be raised in this way to pay the interest at present, it's increase by the increase of population (suppose 5. per cent. per annum), will alone sink the principle within a few years, operating, as it will, in the way of compound interest. Add to this what may be done by throwing in the aid of western lands & other articles as a sinking fund, and our prospect is really a bright one.

A pretty important expedition has been undertaken against the Indians north of the Ohio. As yet we have no news of it's success. The late elections of members of Congress have changed about a third or fourth of them. It is imagined the session of

[1] Patrick Henry.

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Congress, which is to begin within 10. days will end on the 3d of March, with the federal year; as a continuance over that day would oblige them to call forward the new members. The admission of Vermont & Kentuckey into Congress, will be decided on in this session.

TO WILLIAM TEMPLE FRANKLIN J. MSS.

PHILADELPHIA Nov. 27, 1790.

DEAR SIR,—I am favored with yours of Oct. 13. The President is not yet arrived. Your general desire being known, I will take care that your special preferences shall also be known should circumstances give place to it. Your grandfather sent me only one sheet of Mitchell's map, and it makes part of the testimony he was desired to give on the subject of the disputed river of St. Croix, being referred to in his letter accompanying it. I therefore take the liberty of proposing to you to give you a complete copy of the same map, or the price of it, in exchange for the remaining sheets to which the one in our possession belonged.

I am in the hopes you will continue in the mind of publishing Dr Franklin's works in 8vo otherwise I think you will find few purchasers, till the Irish printers by a cheaper edition intercept the wishes of those who like books of a handy size. I am sure your delicacy needs no hint from me against the publication of such letters or papers from Dr Franklin as Min. Plen. of the U. S. as might not yet be proper to put into the possession of every body. Wishing

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you the best success in your pursuits I am with great esteem Dr Sir your most obed^t^ and most humble serv^t^

OPINION ON CAPITAL J. MSS.

[November 29, 1790.]

Opinion on proceedings to be had under the Residence act.

A territory not exceeding ten miles square (or, I presume, one hundred square miles in any form) to be located by metes and bounds.

Three commissioners to be appointed. I suppose them not entitled to any salary.

[If they live near the place they may, in some instances, be influenced by self interest, and partialities; but they will push the work with zeal. If they are from a distance, and northwardly, they will be more impartial, but may affect delays.]

The commissioners to purchase or accept "such quantity of land on the east side of the river as the President shall deem *proper for the United States*," viz., for the federal Capitol, the offices, the President's house and gardens, the town house, market house, public walks and hospital. For the President's house, offices and gardens, I should think two squares should be consolidated. For the Capitol and offices, one square. For the market, one square. For the public walks, nine squares consolidated.

The expression "such quantity of land as the President shall deem *proper for the United States*," is vague. It may therefore be extended to the ac-

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ceptance or purchase of land enough for the town; and I have no doubt it is the wish, and perhaps expectation. In that case, it will be to be laid out in lots and streets. I should propose these to be at right angles, as in Philadelphia, and that no street be narrower than one hundred feet, with foot ways of fifteen feet. Where a street is long and level, it might be one hundred and twenty feet wide. I should prefer squares of at least two hundred yards every way, which will be about eight acres each.

The commissioners should have some taste in architecture, because they may have to decide between different plans.

They will, however, be subject to the President's direction in every point.

When the President shall have made up his mind as to the spot for the town, would there be any impropriety in his saying to the neighboring land holders, "I will fix the town here if you will join and purchase and give the lands." They may well afford it by the increase of value it will give to their own circumjacent lands.

The lots to be sold out in breadths of fifty feet; their depths to extend to the diagonal of the square.

I doubt much whether the obligation to build the houses at a given distance from the street, contributes to its beauty. It produces a disgusting monotony; all persons make this complaint against Philadelphia. The contrary practice varies the appearance, and is much more convenient to the inhabitants.

In Paris it is forbidden to build a house beyond a

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given height; and it is admitted to be a good restriction. It keeps down the price of ground, keeps the houses low and convenient, and the streets light and airy. Fires are much more manageable where houses are low.

TO NOAH WEBSTER J. MSS.

PHILADELPHIA. Dec. 4. 1790.

SIR,—Your favor of Oct. 4. came to my hands on the 20. of November. Application was made a day or two after to Mr. Dobson for the copies of your essays, which were received, and one of them lodged in the office. For that intended for myself be pleased to accept my thanks. I return you the order on Mr. Allen, that on Dobson having been made use of instead of it. I submit to your consideration whether it might not be advisable to record a second time your right to the Grammatical institutes, in order to bring the lodging of the copy in my office within the 6. months made a condition in the law? I have not at this moment an opportunity of turning to the law to see if that may be done: but I suppose it possible that the failure to fulfil the legal condition on the first record might excite objections against the validity of that.

In mentioning me in your essays,[1] and canvassing my opinions, you have done what every man has a right to do, and it is for the good of society that that right should be freely exercised. No republic is

[1] In Webster's *Essays*, Boston: 1790, a section had been devoted to discussing Jefferson's arguments for a bill of rights, and to his chapter in the *Notes on Virginia* on the constitution of that state.

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more real than that of letters, and I am the last in principles, as I am the least in pretensions, to any dictatorship in it. Had I other dispositions, the philosophical & dispassionate spirit with which you have expressed your own opinions in opposition to mine, would still have commanded my approbation. A desire of being set right in your opinion, which I respect too much not to entertain that desire, induces me to hazard to you the following observations. It had become an universal and almost uncontroverted position in the several states, that the purposes of society do not require a surrender of all our rights to our ordinary governors: that there are certain portions of right not necessary to enable them to carry on an effective government, & which experience has nevertheless proved they will be constantly encroaching on, if submitted to them: that there are also certain fences which experience has proved peculiarly efficacious against wrong, and rarely obstructive of right, which yet the governing powers have ever shown a disposition to weaken and remove. Of the first kind, for instance, is freedom of religion: of the second, trial by jury, Habeas corpus laws, free presses. These were the settled opinions of all the states, of that of Virginia, of which I was writing, as well as of the others. The others had in consequence delineated these unceded portions of right, and these fences against wrong, which they meant to exempt from the power of their governors, in instruments called declarations of rights & constitutions: and as they did this by Conventions which they appointed for the

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express purpose of reserving these rights, and of delegating others to their ordinary legislative, executive and judiciary bodies, none of the reserved rights can be touched without resorting to the people to appoint another convention for the express purpose of permitting it. Where the constitutions then have been so formed by conventions named for this express purpose they are fixed & unalterable but by a convention or other body to be specially authorized. And they have been so formed by, I believe, all the States, except Virginia. That State concurs in all these opinions, but has run into the wonderful error that her constitution, tho made by the ordinary legislature, cannot yet be altered by the ordinary legislature. I had therefore no occasion to prove to them the expediency of a constitution alterable only by a special convention. Accordingly I have not in my notes advocated that opinion, tho it was & is mine, as it was and is theirs. I take that position as admitted by them: and only proceed to adduce arguments to prove that they were mistaken in supposing their constitution could not be altered by the common legislature. Among other arguments I urge that the Convention which formed the constitution had been chosen merely for ordinary legislation; that they had no higher power than every subsequent legislature was to have; that all their acts are consequently repealable by subsequent legislatures; that their own practice at a subsequent session proved they were of this opinion themselves; that the opinion & practice of several subsequent legislatures had been the same, and so conclude "that their constitution is alterable

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by the common legislature." Yet these arguments urged to prove that their constitution *is* alterable, you cite as if urged to prove that it *ought not to be* alterable, and you combat them on that ground. An argument which is good to prove one thing, may become ridiculous when exhibited as intended to prove another thing. I will beg the favor of you to look over again the passage in my *Notes*, and am persuaded you will be sensible that you have misapprehended the object of my arguments, and therefore have combated them on a ground for which they were not intended. My only object in this is the rectification of your own opinion of me, which I repeat that I respect too much to neglect. I have certainly no view of entering into the contest whether it be expedient to delegate unlimited powers to our ordinary governors? My opinion is against that expediency; but my occupations do not permit me to undertake to vindicate all my opinions, nor have they importance enough to merit it. It cannot, however, but weaken my confidence in them when I find them opposed to yours, there being no one who respects the latter more than Sir your most obed^{t} & most humble serv^{t}

DRAFT OF PARAGRAPHS FOR PRESIDENT'S MESSAGE[1]

J. MSS.

[Dec. 8. 1790.]

The laws you have already passed for the establishment of a judiciary system have opened the doors

[1] See *Annals*, ii, 1730, for these paragraphs in the message as transmitted to Congress.

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of justice to all descriptions of persons. You will consider in your wisdom whether improvements in that system may yet be made; and particularly whether an uniform process of execution, or sentences issuing from the federal courts be not desirable thro' all the states.

The patronage of our commerce, of our merchants and seamen, has called for the appointment of Consuls in foreign countries. It seems expedient to regulate by law the exercise of that jurisdiction, and of those functions which are permitted them, either by express convention, or by a friendly indulgence in the places of their residence. The Consular Convention too, with his most Christian Majesty has stipulated, in certain cases, the aid of the national authority to his Consuls established here. Some legislative provision is requisite to carry these stipulations into full effect.

TO THE PRESIDENT OF THE UNITED STATES

J. MSS.

DEPARTMENT OF STATE. Dec. 9. 1790.

SIR,—I have now the honour to return you the letter from the President of the Assembly of representatives for the community of Paris to the President and members of Congress, which you had received from the President of the Senate with the opinion of that house that it should be opened by you, and their request that you would communicate to Congress such parts of it as in your opinion might be proper to be laid before the legislature.

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The subject of it is the death of the late Dr Franklin. It conveys expressions from that respectable city to the legislature of the United States, of the part they take in that loss, and information that they had ordered a solemn and public Oration for the transmission of his virtues and talents to posterity; copies of which for the members of Congress accompany their letter: & it is on the whole an evidence of their marked respect & friendship towards these United States.

I am of opinion their letter should be communicated to Congress, who will take such notice of this friendly advance as their wisdom shall conceive to be proper.

REPORT ON WESTERN LANDS J. MSS.

[December 14, 1790.]

Report by the Secretary of State to the President of the United States on the Report of the Secretary of the Government north-west of the Ohio.

The Secretary of State having had under his consideration the report made by the Secretary of the Government north-west of the Ohio, of his proceedings for carrying into effect the resolution of Congress of August 29th, 1788, respecting the lands of the inhabitants of Port Vincennes, makes the following report thereon to the President of the United States:

The resolution of Congress of August 29th, 1788, had confirmed in their possessions and titles the French and Canadian inhabitants and other settlers

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at that post, who, in or before the year 1783, had settled there, and had professed themselves citizens of the United States or any of them, and had made a donation to every head of a family, of the same description of four hundred acres of land, part of a square to be laid off adjoining the improvements at the post.

The Secretary of the north-western government, in the absence of the Governor, has carried this resolution into effect, as to all the claims to which he thought it could be clearly applied: there remain, however, the following description of cases, on which he asks further instructions:

1. Certain cases within the letter of the resolution, but rendered doubtful by the condition annexed, to the grants of lands in the Illinois country. The cases of these claimants, fifteen in number, are specially stated in the papers hereto annexed, number 2, and the lands are laid off for them but remain ungranted till further orders.

2. Certain persons who, by removals from one part of the territory to another, are not of the letter of the resolutions, but within its equity, as they conceive.

3. Certain heads of families, who became such soon after the year 1783, who petition for a participation of the donation, and urge extraordinary militia service to which they are exposed.

4. One hundred and fifty acres of land within the village granted under the former government of that country, to the Piankeshaw Indians, and on their removal sold by them in parcels to individual

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inhabitants, who in some instances have highly improved them both before and since the year 1783.

5. Lands granted both before and after 1783, by authority from the commandant of the post, who, according to the usage under the French and British governments, thinking himself authorized to grant lands, delegated that authority to a court of civil and criminal jurisdiction, whose grants before 1783, amount to twenty-six thousand acres, and between that and 1787, (when the practice was stopped,) to twenty-two thousand acres. They are generally in parcels from four hundred acres down to the size of house lots; and some of them under considerable improvement. Some of the tenants urge that they were induced by the court itself to come and settle these lands under assurance of their authority to grant them, and that a loss of the lands and improvements will involve them in ruin. Besides these small grants, there are some much larger, sometimes of many leagues square, which a sense of their impropriety has prevented the grantees from bringing forward. Many pretended grants, too, of this class are believed to be forgeries, and are, therefore, to be guarded against.

6. Two thousand four hunderd acres of good land, and three thousand acres of sunken land, held under the French, British, and American governments, as commons for the use of the inhabitants of the village generally, and for thirty years past kept under inclosure for these purposes.

The legislature alone being competent to authorize the grant of lands in cases as yet unprovided for by

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the laws, the Secretary of State is of opinion that the report of the Secretary of the north-western government, with the papers therein referred to, should be laid before Congress for their determination. Authentic copies of them are herewith enclosed to the President of the United States.

OPINION ON TERRITORIAL AUTHORITY J. MSS.

[December 14, 1790.]

Opinion on certain proceedings of the Executive in the North-western Territory.

The Secretary of State having had under his consideration, the journal of the proceedings of the Executive in the North-western Territory, thinks it his duty to extract therefrom, for the notice of the President of the United States, the articles of April 25th, June 6th, 28th, and 29th. Some of which are hereto annexed.

Conceiving that the regulations, purported in these articles, are beyond the competence of the executive of the said government, that they amount, in fact, to laws, and as such, could only flow from its regular legislature; that it is the duty of the general government to guard its subordinate members from the encroachments of each other, even when they are made through error or inadvertence, and to cover its citizens from the exercise of powers not authorized by the law, the Secretary of State is of opinion that the said articles be laid before the Attorney General for consideration, and if he finds them to be

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against law, that his opinion be communicated to the Governor of the North-western Territory, for his future conduct.

REPORT ON BRITISH NEGOTIATIONS J. MSS.

[December 15, 1790.]

Report on certain letters from the President to Mr. Gouverneur Morris, and from Mr. Morris to the President, relative to our difficulties with England —1790.

The Secretary of State having had under consideration the two letters of October 13th, 1789, from the President of the United States to Mr. Gouverneur Morris; and those of Mr. Morris to the President, of January 22d, April 7th, 13th, May 1st, 29th, July 3d, August 16th, and September 18th, referred to him by the President, makes the following report thereon:

The President's letter of January 22d, authorized Mr. Morris to enter into conference with the British ministers in order to discover their sentiments on the following subjects:

1. Their retention of the western posts contrary to the treaty of peace.

2. Indemnification for the negroes carried off against the stipulations of the same treaty.

3. A treaty for the regulation of the commerce between the two countries.

4. The exchange of a minister.

The letters of Mr. Morris before mentioned state the communications, oral and written, which have

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passed between him and the ministers; and from these the Secretary of State draws the following inferences:

1. That the British court is decided not to surrender the post in any event; and that they will urge as a pretext that though our courts of justice are now open to British subjects, they were so long shut after the peace as to have defeated irremedially the recovery of debts in many cases. They suggest, indeed, the idea of an indemnification on our part. But probably were we disposed to admit their right to indemnification, they would take care to set it so high as to insure a disagreement.

2. That as to indemnification for the negroes, their measures for concealing them were in the first instance so efficacious, as to reduce our demand for them, so far as we can support it by direct proof, to be very small indeed. Its smallness seems to have kept it out of discussion. Were other difficulties removed, they would probably make none of this article.

3. That they equivocate on every proposal of a treaty of commerce, and authorize in their communications with Mr. Morris the same conclusions which have been drawn from those they had had from time to time with Mr. Adams, and those through Major Beckwith; to wit, that they do not mean to submit their present advantages in commerce to the risk which might attend a discussion of them, whereon some reciprocity could not fail to be demanded. Unless, indeed, we would agree to make it a treaty of *alliance* as well as *commerce*, so as to undermine

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our obligations with France. This method of stripping that rival nation of its alliances, they tried successfully with Holland, endeavored at it with Spain, and have plainly and repeatedly suggested to us. For this they would probably relax some of the rigors they exercise against our commerce.

4. That as to a minister, their Secretary for foreign affairs is disposed to exchange one, but meets with opposition in his cabinet, so as to render the issue uncertain.

From the whole of which, the Secretary of State is of opinion that Mr. Morris' letters remove any doubts which might have been entertained as to the intentions and dispositions of the British cabinet.

That it would be dishonorable to the the United States, useless and even injurious, to renew the propositions for a treaty of commerce, or for the exchange of a minister; and that these subjects should now remain dormant, till they shall be brought forward earnestly by them.

That the demands of the posts, and of indemnification for the negroes should not be again made till we are in readiness to do ourselves the justice which may be refused.

That Mr. Morris should be informed that he fulfilled the object of his agency to the satisfaction of the President, inasmuch as he has enabled him to judge of the real views of the British cabinet, and that it is his pleasure that the matters committed to him be left in the situation in which the letter shall find them.

That a proper compensation be given to Mr.

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Morris for his services herein, which having been begun on the 22d of January, and ended the 18th of September, comprehended a space of near eight months; that the allowance to an agent may be properly fixed anywhere between the half and the whole of what is allowed to a Chargé d'affaires; which, according to the establishment of the United States at the time of this appointment, was at the rate of $3,000 a year; consequently, that such a sum of between one and two thousand dollars be allowed him as the President shall deem proper, on a view of the interference which this agency may have had with Mr. Morris' private pursuits in Europe.

TO THE U. S. CONSUL AT LONDON
(JOSHUA JOHNSON) S. P.

PHILADELPHIA, December 17, 1790.

SIR,—Though not yet informed of the receipt of my letter, covering your commission as consul for the United States, in the port of London, yet knowing that the ship has arrived by which it went, I take for granted the letter and commission have gone safe to hand, and that you have been called into the frequent exercise of your office for the relief of our seamen, upon whom such multiplied acts of violence have been committed in England, by press-gangs, pretending to take them for British subjects, not only without evidence, but against evidence. By what means may be procured for our seamen, while in British ports, that security for their persons

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which the laws of hospitality require, and which the British nation will surely not refuse, remains to be settled. In the meantime, there is one of these cases, wherein so wilful and so flagrant a violation has been committed by a British officer, on the person of one of our citizens, as requires that it be laid before his government, in friendly and firm reliance of satisfaction for the injury, and of assurance for the future, that the citizens of the United States, entering the ports of Great Britain, in pursuit of a lawful commerce, shall be protected by the laws of hospitality in usage among nations.

It is represented to the President of the United States, that Hugh Purdie, a native of Williamsburg, in Virginia, was, in the month of July last, seized in London by a party of men, calling themselves press-officers, and pretending authority from their government to do so, notwithstanding his declarations and the evidence he offered of his being a native citizen of the United States; and that he was transferred on board the *Crescent*, a British ship of war, commanded by a Captain Young. Passing over the intermediate violences exercised on him, because not peculiar to his case (so many other American citizens having suffered the same), I proceed to the particular one which distinguishes the present representation. Satisfactory evidence having been produced by Mr. John Brown Cutting, a citizen of the United States, to the Lords of the Admiralty, that Hugh Purdie was a native citizen of the same States, they, in their justice, issued orders to the Lord Howe, their Admiral, for his discharge. In the meantime, the

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Lord Howe had sailed with the fleet of which the *Crescent* was. But, on the 27th of August, he wrote to the board of admiralty, that he had received their orders for the discharge of Hugh Purdie, and had directed it accordingly. Notwithstanding these orders, the receipt of which at sea Captain Young acknowledges, notwithstanding Captain Young's confessed knowledge, that Hugh Purdie was a citizen of the United States, from whence it resulted that his being carried on board the *Crescent* and so long detained there, had been an act of wrong, which called for expiatory conduct and attentions, rather than new injuries on his part towards the sufferer, instead of discharging him according to the orders he had received, on his arrival in port, which was on the 14th of September, he, on the 15th, confined him in irons for several hours, then had him bound and scourged in presence of the ship's crew, under a threat to the executioner that if he did not do his duty well, he should take the place of the sufferer. At length he discharged him on the 17th, without the means of subsistence for a single day. To establish these facts, I enclose you copies of papers communicated to me by Mr. Cutting, who laid the case of Purdie before the board of admiralty, and who can corroborate them by his personal evidence. He can especially verify the letter of Captain Young, were it necessary to verify a paper, the original of which is under the command of his Majesty's ministers, and this paper is so material, as to supersede of itself all other testimony, confessing the orders to discharge Purdie, that yet he had whipped him, and

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that it was impossible, without giving up all sense of discipline, to avoid whipping a free American citizen. We have such confidence in the justice of the British government, in their friendly regard to these States, in their respect for the honor and good understanding of the two countries, compromitted by this act of their officer, as not to doubt their due notice of *him*, indemnification to the sufferer, and a friendly assurance to these States that effectual measures shall be adopted in future, to protect the persons of their citizens while in British ports.

By the express command of the President of the United States, you are to lay this case, and our sense of it, before his Britannic Majesty's minister for Foreign Affairs, to urge it on his particular notice by all the motives which it calls up, and to communicate to me the result.

TO THE U. S. CONSUL AT LONDON (JOSHUA JOHNSON) S. P.

PHILADELPHIA, December 23. 1790.

DEAR SIR,—The vexations of our seamen and their sufferings under the press-gangs of England, have become so serious as to oblige our government to take serious notice of it. The particular case has been selected where the insult to the United States has been the most barefaced, the most deliberately intentional, and the proof the most complete. The enclosed letter to you is on that subject, and has been written on the supposition that you would show the original to the Duke of Leeds, and give

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him a copy of it, but as of your own movement, and not as if officially instructed so to do. You will be pleased to follow up this matter as closely as decency will permit, pressing it in firm but respectful terms, on all occasions. We think it essential that Captain Young's case may be an example to others. The enclosed letters are important. Be so good as to have them conveyed by the surest means possible.

TO JAMES MONROE J. MSS.

PHILADELPHIA Jan. 18. 1791.

MY DEAR SIR,—I have been so constantly afflicted at my inability to acknowledge the receipt of Dr. Mortimer's letters & of those of my friends Mr. Fitzhugh & Mr. Page; but I have for some weeks past been forced by other business to suspend answering any letters whatever, unless indeed of indispensable magnitude and even now must beg you to make the answer for me. When I came into office I found the clerkships all filled by gentlemen who had been in them several years, and who to the title of possession added that of irreproachable conduct. I have therefore not had a single appointment to make. This answer has been given to near an hundred letters which I have had to write in reply to applications of this nature. I wish with all my soul I could have obliged my friends on this occasion.

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REPORT ON TONNAGE LAW[1] J. MSS.

[Jan 18, 1791.]

The Secretary of State having received from the Chargé des Affaires of France a note on the Tonnage

[1] The original letter of Otto's, as well as this report of Jefferson's as transmitted to Congress, are in the *State Papers* (Foreign Relations, I, 109). Jefferson submitted this report to Hamilton, with the following letter:

"January 1st, 1791.

"DEAR SIR,—I inclose you copies of the printed papers you desired: also a letter I received last night. This paper I will thank you to return by the bearer when you shall have perused it, as it is yet to be translated & communicated to the President. It is evident that this matter will become serious, & tho' I am pointedly against admitting the French construction of the treaty; yet I think it essential to work up some favour which may ensure the continuance of the good dispositions they have towards us. A nation which takes one third of our tobacco, more than half our fish oil & two thirds of our fish, say one half of the amount of these great staples and a great deal of rice, & from whom we take nothing in return but hard money to carry directly over and pour into the coffers of their enemies, such a customer, I say, deserves some menagemens. I would thank you sincerely to suggest any thing better than I had thought of. I am dear Sir your's affectionately & respectfully."

See two very interesting letters of Hamilton on this report in *Hamilton's Works*, Federal edition, IV, 345, 347. The editor, Mr. Lodge, adds two foot-notes to them, stating:

"This refers undoubtedly to our treaty with France. What the precise exemption was which was sought is not clear, although indicated in this and the next letter. There is no evidence that this 'intended' report was ever made; at least it is not found in Jefferson's works nor in those of Washington."

"Although the precise point involved is lost, the general purport of this and the preceding letter is clear. Jefferson was considering whether to recommend some treaty construction favorable to France. Hamilton civilly disagreed on being consulted, and the matter appears to have been dropped."

Jefferson also consulted Madison concerning this, writing him:

[Jan. 1791.]

"I intended to have called last night & left with you the enclosed draught of a lre to Otto but it was so cold I could not give up my hack. I received yours soon after I came home. Of the two constructions I

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payable by french vessels in the ports of the United States has had the same under his consideration, and thereupon makes the following Report to the President of the United States:

The Chargé des Affaires of France, by a note of the 13th. of December represents, by order of his Court, that they consider so much of the acts of Congress of July 20th. 1789 and 1790 as imposes an extraordinary Tonnage on foreign vessels, without excepting those of France, to be in contravention of the 5th. Article of the Treaty of Amity and Commerce between the two nations; that this would have authorised on their part a proportional modification in the favours granted to the American navigation: but that his sovereign had thought it more conformable to his principles of friendship and attachment to the United States to order him to make representations thereon, and to ask, in favour of french Vessels, a modification of the acts which impose an extraordinary Tonnage on foreign vessels.

The Secretary of State in giving this paper to the President of the United States, thinks it his duty to accompany it with the following observations:

The 3d. and 4th. Articles of the Treaty of Amity

observe you lean more to the 2d. and I more to the 1st. on account of the consequences to which the 2d may be pursued—My first idea was to write this lre to Otto and previously communicate it to the President & he perhaps to the Senate. But I have concluded to throw it into the form of a report to the President, to be submitted to the Senate. This will permit me to speak without reserve, to admit the force of 2d construction, & to enforce the proposition I suggest in the close, by showing what valuable branches of our commerce hang on the will of the French nation. I shall see you at dinner & be glad to exchange further thought on the subject which is an important one."

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and Commerce between France and the United States, subject the vessels of each nation to pay, in the ports of the other, only such duties as are paid by the most favoured nation: and give them reciprocally all the privileges and exemptions, in navigation and commerce, which are given by either to the most favoured nations. Had the contracting parties stopped here, they would have been free to raise or lower their Tonnage as they should find it expedient; only taking care to keep the other on the footing of the most favoured nation.

The question then is whether the 5th. Article, cited in the note, is anything more than an application of the principle comprised in the 3d. and 4th. to a particular object? or whether it is an additional stipulation of something not so comprised?

I. That it is merely an application of a principle comprised in the preceding articles, is declared by the express words of the article, to wit, "*Dans l'exemption cidessus est nommément compris*" &c, "*in the above exemption is particularly comprised* the imposition of 100. sols per Ton established in France on foreign vessels." Here then is at once an express declaration that the exemption from the duty of 100. sols, is *comprised* in the 3d, and 4th. articles; that is to say, it was one of the exemptions, enjoyed by the most favoured nations, and, as such, extended to us by those articles. If the exemption spoken of in this 1st. member of the 5th. article was *comprised* in the 3d. and 4th. articles, as is expressly declared, then the reservation by France out of that exemption (which makes the 2d. member of the same

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article) *was also comprised:* that is to say, if *the whole* was comprised, *the part* was comprised. And if this reservation of France in the 2d. member was comprised in the 3d. and 4th. Articles, then the counter reservation by the United States (which constitutes the 3d. and last member of the same article) was also comprised. Because it is but a corresponding portion of a similar whole on our part, which had been comprised by the same terms with theirs.

In short the whole article relates to a particular duty of 100 sols laid by some antecedent law of France on the vessels of foreign nations, relinquished as to the most favoured, and consequently to us. It is not a new and additional stipulation then, but a declared application of the stipulations comprised in the preceding Articles to a particular case, by way of greater caution.

The doctrine laid down generally in the 3d. and 4th. Articles, and exemplified specially in the 5th. amounts to this: "The vessels of the most favoured nations, coming from foreign ports, are exempted from the duty of 100. sols: therefore you are exempted from it by the 3d. and 4th. Articles. The vessels of the most favoured nations, coming coastwise, pay that duty: therefore you are to pay it by the 3d. and 4th. Articles: we shall not think it unfriendly in you to lay a like duty on coasters, because it will be no more than we have done ourselves. You are free also to lay that or any other duty on vessels coming from foreign ports: provided they apply to all other nations, even the most favoured. We are free to do the same, under the same restric-

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tion. Our exempting you from a duty which the most favoured nations do not pay, does not exempt you from one which they do pay."

In this view it is evident that the 5th. Article neither enlarges, nor abridges the stipulations of the 3d. and 4th. The effect of the Treaty would have been precisely the same had it been omitted altogether; consequently it may be truly said that the reservation by the United States in this Article is completely useless. And it may be added with equal truth that the equivalent reservation by France is completely useless: as well as her previous abandonment of the same duty: and in short the whole article. Each party then remains free to raise or lower its Tonnage, provided the change operates on all nations, even the most favoured.

Without undertaking to affirm, we may obviously conjecture, that this Article has been inserted on the part of the United States from an over-caution to guard, *nommément, by name*, against a particular aggrievance; which they thought they could never be too well secured against: and that has happened, which generally happens; doubts have been produced by the two great number of words used to prevent doubt.

II. The Court of France however understands this article as intended to introduce something to which the preceding articles had not reached; and not merely as an application of them to a particular case. Their opinion seems to be founded on the general rule, in the construction of instruments, to leave no words merely useless, for which any rational

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meaning can be found. They say that the reservation by the United States of a right to lay a duty equivalent to that of the 100 sols, reserved by France, would have been completely useless, if they were not left free, by the preceding articles, to lay a Tonnage to any extent whatever. Consequently that the reservation of a part proves a relinquishment of the residue.

If some meaning, and such a one, is to be given to the last member of the Article, some meaning, and a similar one, must be given to the corresponding member. If the reservation by the United States of a right to lay an equivalent duty, implies a relinquishment of their right to lay any other, the reservation by France of a right to continue the specified duty to which it is an equivalent, must imply a relinquishment of the right on her part to lay or continue any other. Equivalent reservations by both, must imply equivalent restrictions on both. The exact reciprocity stipulated in the preceding articles, and which pervades every part of the Treaty, insures a counter-right to each party for every right ceded to the other.

Let it be further considered that the duty called *tonnage* in the United States is in lieu of the duties for anchorage, for the support of Bouys, Beacons, and Light-houses, to guide the mariner into harbour, and along the coast, which are provided and supported at the expence of the United States, and for fees to measurers, weighers, gaugers &c. who are paid by the United States; for which articles, among many others (light excepted) duties are paid by us

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in the ports of France under their specific names. The government has hitherto thought these duties consistent with the Treaty; and consequently the same duties under a general, instead of specific names, with us, must be equally consistent with it; it is not the name, but the thing which is essential. If we have renounced the right to lay any port duties, they must be understood to have equally renounced that of either laying new or continuing the old. If we ought to refund the port duties received from their vessels since the date of the act of Congress, they should refund the port duties they have received from our vessels since the date of the Treaty; for nothing short of this is the reciprocity of the Treaty.

If this construction be adopted then, each party has forever renounced the right of laying any duties on the vessels of the other coming from any foreign port, or more than 100 sols on those coming coastwise. Could this relinquishment be confined to the two contracting parties alone, the United States would be the gainers, for it is well known that a much [1] greater number of American than of French vessels are employed in the commerce between the two countries: but the exemption once conceded by the one nation to the other, becomes immediately the property of all others, who are on the footing of the most favoured nations. It is true that those others would be obliged to yield the same

[1] By an official paper from the Bureau of the balance of commerce of France, we find that of the ships which entered the ports of France from the U. S. in the year 1789. only 13. amounting to 2105. tons were French, & 163. making 24,173 tons were American.—*T. J.*

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compensation, that is to say, to receive our vessels duty free. Whether we should gain or lose in the exchange of the measure with them, is not easy to say.

Another consequence of this construction will be that the vessels of the most favoured nations, paying no duties, will be on a better footing than those of nations, which pay a moderate duty, consequently either the duty on these also must be given up, or they will be supplanted by foreign vessels in our own ports.

The resource then of duty on vessels for the purposes either of revenue or regulation, will be forever lost to both. It is hardly conceivable that either party, looking forward to all these consequences, would see their interest in them.

III. But if France persists in claiming this exemption, what is to be done? The claim indeed is couched in mild and friendly terms; but the idea leaks out that a refusal would authorize them to modify proportionally the favours granted, by the same article, to our navigation. Perhaps they may do what we should feel much more severely; they may turn their eyes to the favours granted us by their arrets of December 29th. 1787 and December 7th. 1788. which hang on their will alone, unconnected with the Treaty. Those arrets, among other advantages, admit our whale oils to the exclusion of that of all other foreigners. And this monopoly procures a vent for seven twelfths of the produce of that Fishery, which experience has taught us could find no other market. Near two thirds of the produce of our cod fisheries too have lately

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found a free vent in the colonies of France.[1] This indeed has been an irregularity growing out of the anarchy reigning in those Colonies. Yet the demands of the Colonists, even of the Government party among them, (if an auxiliary disposition can be excited by some marks of friendship and distinction on our part) may perhaps produce a Constitutional concession to them to procure their provisions at the cheapest market; that is to say, at ours.

Considering the value of the interests we have at stake, and considering the smallness of difference between foreign and native Tonnage, on french vessels alone, it might perhaps be thought advisable to make the sacrifice asked; and especially if it can be so done as to give no title to other the most favoured nations to claim it. If the act should put french vessels on the footing of those of natives, and declare it to be in consideration of the favours granted us by the arrets of Decr. 29th. 1787, and December 7th. 1788, (and perhaps this would satisfy them). No nation could then demand the same

[1] Abstract of the produce of the Fisheries exported from the United States from August 20th. 1789 to August 14th. 1790. in which is omitted one quarter's exportations from Boston, Plymouth, Dighton, Penobscot, Frenchman's Bay, Machias, and New York, of which the returns are not received.—*T. J.*

	COD FISHERY	WHALE FISHERY	BOTH FISHERIES
France and the french West Indies.....	586.167 dollrs	131.906 dollrs	718.073.dollrs
The rest of the World.	307.097	101.306	408.403
Whole produce....	893.264	233.212	1.126.476

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favour, without offering an equivalent compensation. It might strengthen too the tenure by which those arrets are held, which must be precarious, so long as they are gratuitous.

It is desirable, in many instances, to exchange mutual advantages by Legislative Acts rather than by Treaty: because the former, though understood to be in consideration of each other, and therefore greatly respected, yet when they become too inconvenient, can be dropped at the will of either party: whereas stipulations by Treaty are forever irrevocable but by joint consent, let a change of circumstances render them ever so burthensome.

1. On the whole, if it be the opinion, that the 1st. construction is to be insisted on, as ours, in opposition to the 2d. urged by the Court of France, and that no relaxation is to be admitted, an answer shall be given to that Court defending that construction, and explaining in as friendly terms as possible, the difficulties opposed to the exemption they claim.

2. If it be the opinion that it is advantageous for us to close with France in her interpretation of a reciprocal and perpetual exemption from Tonnage; a repeal of so much of the Tonnage law will be the answer.

3. If it be thought better to waive rigorous and nice discussions of right, and to make the modification an act of friendship and of compensation for favours received, the passage of such a bill will then be the answer.

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DRAFT OF SENATE RESOLUTION[1] J. MSS.

IN SENATE Feb. 1. 1791.

The Commee. to whom was referred that part of the Speech of the President of the U. S. at the opening of the session which relates to the commerce of the Mediterranean, & also the letter from the Secy. of State dated 20th Jany. 1791. with the papers accompanying the same reported, whereupon

Resolved that the Senate do advise & consent that the President of the U. S. take such measures as he may think necessary for the redemption of the citizens of the U. S. now in captivity at Algiers, provided the expence shall not exceed 40,000 Doll: & also that measures be taken to confirm the treaty now existing between the U. S. & the emperor of Morocco.

TO GEORGE MASON J. MSS.

PHILADELPHIA Feb. 4. 1791.

DEAR SIR,—I am to make you my acknowledgments for your favor of Jan. 10, & the information from France which it contained. It confirmed what I had heard more loosely before, and accounts still more recent are to the same effect. I look with great anxiety for the firm establishment of the new government in France, being perfectly convinced that if it takes place there, it will spread sooner or later all over Europe. On the contrary a check there would retard the revival of liberty in other countries. I consider the establishment and success

[1] *Cf.* with *Annals*, ii., 1752, where this resolution, in slightly modified form, was introduced by Langdon.

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of their government as necessary to stay up our own, and to prevent it from falling back to that kind of Half-way house, the English constitution. It cannot be denied that we have among us a sect who believe that to contain whatever is perfect in human institutions; that the members of this sect have, many of them, names & offices which stand high in the estimation of our countrymen. I still rely that the great mass of our community is untainted with these heresies, as is it's head. On this I build my hope that we have not laboured in vain, and that our experiment will still prove that men can be governed by reason. You have excited my curiosity in saying "there is a particular circumstance, little attended to, which is continually sapping the republicanism of the United States." What is it? What is said in our country of the fiscal arrangements now going on? I really fear their effect when I consider the present temper of the Southern states. Whether these measures be right or wrong abstractedly, more attention should be paid to the general opinion. However, all will pass—the excise will pass—the bank will pass. The only corrective of what is corrupt in our present form of government will be the augmentation of the numbers in the lower house, so as to get a more agricultural representation, which may put that interest above that of the stock-jobbers.

I had no occasion to sound Mr. Madison on your fears expressed in your letter. I knew before, as possessing his sentiments fully on that subject, that his value for you was undiminished. I have always

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heard him say that though you and he appeared to differ in your systems, yet you were in truth nearer together than most persons who were classed under the same appellation. You may quiet yourself in the assurance of possessing his complete esteem. I have been endeavoring to obtain some little distinction for our useful customers, the French. But there is a particular interest opposed to it, which I fear will prove too strong. We shall soon see. I will send you a copy of a report I have given in, as soon as it is printed. I know there is one part of it contrary to your sentiments; yet I am not sure you will not become sensible that a change should be slowly preparing. Certainly, whenever I pass your road, I shall do myself the pleasure of turning into it. Our last year's experiment, however, is much in favor of that by Newgate.

TO ROBERT R. LIVINGSTON J. MSS.

PHILADELPHIA Feb. 4. 1791.

DEAR SIR,—Unremitting business since the meeting of Congress has obliged me to a rigorous suspension of my correspondencies, & this is the first day I find myself at liberty to resume them, & to acknowledge the receipt of your favor of Dec. 10. The drawings &c were immediately laid before the board of arts, who, adhering to a general rule, desire a model of your invention and a more ample description, as also more complete drawings. In the mean time a bill is prepared for altering the whole train of

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business & putting it on a more easy footing; this has rendered me the less uneasy under the delay of my answer. I am glad that the experiment you have tried has verified your calculations. The diminution of friction is certainly one of the most desirable reformations in mechanics. Could we get rid of it altogether we should have perpetual motion. I was afraid that using a fluid for a fulcrum, the pivot (for so we may call them) must be of such a diameter as to lose what had been gained. I shall be glad to hear the event of any other experiments you may make on this subject. On that of weights and measures I shall certainly be glad to have a communication of your ideas, & the rather as you suggest they would be so totally different from what has been proposed. It may seem as imprudent as improper to provoke letters from you, when I am obliged to ask such indulgences as to the time of answering. But the truth is I shall always be glad to hear from you & to have your ideas, which are always valuable, & I will answer you when I can. You have too much experience of the obstacles to an exact correspondance in such an office as I hold, to refuse me this indulgence. Are the people in your quarter as well contented with the proceedings of our government, as their representatives say they are? There is a vast mass of discontent gathered in the South, and how & when it will break God knows. I look forward to it with some anxiety. Adieu my dear Sir.

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DRAFT OF A BILL TO PROMOTE THE PROGRESS OF THE USEFUL ARTS[1]

J. MSS.

[Feb. 7 1791.]

Be it enacted by the Senate and Representatives of the United States of America in Congress assembled, that when any person shall have invented any new and useful art, machine, or composition of matter or any new and useful improvement on any art, machine, or composition of matter, and shall desire to have an exclusive property in the same, he shall pay into the Treasury of the United States the sum of dollars, whereof he shall take a receipt from the Treasurer indorsed on the warrant of the Secretary of the Treasury in the usual form, and shall produce the same to the Secretary of State, in whose office he shall then deposit a description of the said inventions in writing and of the manner of using or process of compounding the same in such full, clear, and exact terms, as to distinguish the same from other things before known and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected to make, compound and use the same; and he shall accompany it with drawings and written references and also with exact models made in a strong and workmanlike manner where the nature of the case admits of drawings or models, and with specimens of the ingredients, and of the composition of matter,

[1] This proposed bill was drafted by Jefferson, and introduced into the House of Representatives Feb. 7, 1791, by White (*Annals*, ii, 1937). No further action was taken on it in this Congress. In the next Congress it was again introduced (*Annals*, iii, 741) and, after debate and amendment, was finally passed. The act as adopted is in the *Statutes at Large*, and varies considerably from Jefferson's draft.

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sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter; and he shall be entitled to receive from the Secretary of State a certificate thereof under the seal of his office wherein shall be inserted a shorter and more general description of the thing invented to be furnished by the applicant himself, in terms sufficient to point out the general nature thereof, and to warn others against an interference therewith, a copy of which certificate as also of the warrant of the Secretary of the Treasury and Treasurer's receipt he shall file of record in the clerk's office of every District Court of the United States, and shall publish three times in some one Gazette of each of the said Districts. After which it shall not be lawful for any person without the permission of the owner of the said invention or of his agents to make or sell the thing so invented or discovered, for a term of fourteen years from the date of the Treasurer's receipt.

And be it further Enacted that it shall be lawful for the said inventor to assign his title and interest in the said invention at any time before or after the date of the Treasurer's receipt, and the assignee, having recorded the said assignment in the offices of the Secretary of State and of the Clerks of the District Courts, and published the same three times in some one Gazette of each District, shall thereafter stand in the place of the original inventor, both as to right and responsibility, and so the assignees of assignees to any degree. And any person making or selling the thing so invented without permission

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as aforesaid shall be liable to an action at law, and to such damages as a jury shall assess, unless he can show that the same thing was known to others before the date of the Treasurer's receipt, and can shew such probable grounds as the nature of a negative proof will admit that that knowledge was not derived from any party from, through or in whom the right is claimed, or unless he can shew on like grounds that he did not know that there existed an exclusive right to the said invention, or can prove that (the same is so unimportant and obvious that it ought not to be the subject of an exclusive right, or that) the description, model, specimen or ingredients deposited in the office of the Secretary of State do not contain the whole matter necessary to possess the public of the full benefit thereof after the expiration of the exclusive right, or that they contain superfluous matters intended to mislead the public, or that the effect pretended to cannot be produced by the means described. Provided that where any State before it's accession to the present form of Government, or the adoption of the said form by nine States, shall have granted an exclusive right to any invention, the party claiming that right shall not be capable of obtaining an exclusive right under this act, but on relinquishing his right in and under such particular State, so as that obtaining equal benefits he may be subject to equal restrictions with the other Citizens of the United States, and of such relinquishment his obtaining an exclusive right under this act shall be sufficient evidence.

Provided also that the person whose applications

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for Patents were on the 1st. day of February in this present year depending before the Secretary of State, Secretary at War, and Attorney General, according to the Act of 1790 for promoting the progress of useful Arts, on complying with all the conditions of this Act except the payment to the Treasurer herein before required, and instead of that payment obtaining from the said Secretary of State, Secretary at War and Attorney General, or any two of them, a certificate of the date of his application, and recording and publishing the said certificate instead of the warrant and receipt of Treasury shall be within the purview of this Act as if he had made such payment and his term of fourteen years shall be counted from the said date of his application.

And be it further Enacted, that after the expiration of any exclusive right to an invention, the public shall have reasonable and sufficient access to the descriptions, drawings, models, and specimens, of the same, so as to be enabled to copy them; and moreover that the Secretary of State shall cause the said descriptions and drawings to be printed, engraved and published, on the best terms he can, to the expences of which the Monies paid as before directed in to the Treasury shall be appropriated in the first place, and the balance to the purchase of books to form a public library at the seat of Government, under the direction of such persons as the President of the United States for the time being shall appoint.

And be it Enacted that the act passed in the year

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1790 intitled "an act to promote the progress of the useful arts," be and is hereby repealed.

TO NICHOLAS LEWIS J. MSS.

PHILADELPHIA Feb. 9. 1791.

DEAR SIR,—I have been so closely engaged ever since the meeting of Congress as never to have had a moment to write to you.

I think it might be well to advertize my lands at Elkhill for sale, and therefore inclose you the form of an advertisement, in which you will observe I have omitted the name of the proprietor, which as long as I am in public I would wish to keep out of view in every thing of a private nature. If you think any thing in the advertisement had better be omitted, or any thing else inserted, be so good as to make it what you think it should be.[1]

Understanding that tob° is still low in Virginia, and the price here, for such as mine being from 26/ to 30/ Virginia money I have concluded to try an

[1] "For Sale. The lands called Elk-hill on James river & the Byrd estate, adjacent to Elk-island in Goochland, containing 669 acres & consisting of two parcels, the one of 307 acres of low ground & highlands both of the first quality, the other of 362 acres of good grain land, mostly well timbered. The two parcels are 250 yards apart, a public road passing through that interval & are cultivated as one plantation. On the former and in a very handsome position is a commodious dwelling house, built by the late Reuben Skelton for his own residence, having 4 rooms below & 2 above, with good out houses erected since his time. The price is 40/ sterling the acre, payable by instalments in the years 1793.4.5.6. with interest from the delivery of the lands. Real security will be required. Capt. Henry Mullins, who lives adjoining to these lands will shew them to any person wishing to purchase, & the subscriber in Albemarle has full authority to conclude the sale."

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experiment of bringing part of it here, & if it suits the market the rest may come also. Not being able to wait till the order could go through you, I have written to Mr. Hylton to send me immediately 20. hhds of it, as they are now in want here, & the river now opening they will soon have their supply. I am in hopes it may come in time to order on the residue, if the experiment succeeds. However I would not have the shipment of the rest to Mr. Maury delayed on that account, as perhaps I may find the bringing it here not to answer. The proceeds of these 20. hhds shall be immediately remitted to Mr. Lyle or Hanson. Wheat is here at a French crown: tho' in truth there is little brought to market. I have no doubt it will fall as soon as the farmers come in.

Congress will rise on the 3d of March. They have passed an excise bill, which, considering the present circumstances of the Union, is not without objection, and a bill for establishing a bank to which it is objected that they have transcended their powers. There are certainly persons in all the departments who are for driving too fast. Government being founded on opinion, the opinion of the public, even when it is wrong, ought to be respected to a certain degree. The prudence of the President is an anchor of safety to us. I received Mrs. Lewis's letter of Jan. 23. and return her many thanks for it, as well as for her kind attention to my daughter, who expresses great sensibility for her goodness.

P.S. I must pray you to get the contract with Ronald completely executed, & particularly as to the mortgage of his Beverdam lands. I observe part of

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my Cumberland lands advertised for the taxes of 1789, which I mention lest the advertisement should have escaped you.

DRAFT FOR PRESIDENT'S MESSAGE CONCERNING NEGOTIATIONS WITH GREAT BRITAIN [1] J. MSS.

[Feb. 14, 1791.]

Gentlemen of the Senate & of the House of representatives.

Soon after I was called to the administration of the government, I found it important to come to an understanding with the court of London on several points interesting to the U. S. and particularly to know whether they were disposed to enter into arrangements, by mutual consent, which might fix the commerce between the two nations on principles of reciprocal advantage. For this purpose I authorized informal conferences with their Ministers; and from these I do not infer any disposition on their part to enter into any arrangements merely commercial. I have thought it proper to give you this information, as it might at some time have influence on matters under your consideration.[2]

Gentlemen of the Senate:

Conceiving that in the possible event of a refusal of justice on the part of Gr. Britain, we should stand

[1] The message as sent is in the *Annals*, ii, 1757.

[2] Here follows a paragraph that is struck out, as follows: "*Gentlemen of the Senate:*

For your further and more particular information, I lay before you the instructions I gave to Mr. Gouverneur Morris (the person whom I employed as being on the spot, without giving him any public character) and those"

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less committed should it be made to a private rather than to a public person, I employed Mr. Gouv. Morris, who was on the spot, & without giving him any definite character, to enter informally into the conferences before mentioned. For your more particular information I lay before you the instructions I gave him, and those parts of his communications wherein the British Ministers appear either in conversation or by letter. These are, two letters from the D. of Leeds to Mr. Morris, and three letters of Mr. Morris giving an account of two conferences with the D. of Leeds, & one with him & Mr. Pitt. The sum of these is that they declare without scruple they do not mean to fulfil what remains of the treaty of peace to be fulfilled on their part, (by which we are to understand the delivery of the posts & payment for property carried off,) till performance on our part, & compensation where the delay has rendered performance now impracticable: that on the subject of a treaty of commerce they avoided direct answers so as to satisfy Mr. Morris they did not mean to enter into one unless it could be extended to a treaty of Alliance offensive & defensive, or unless in the event of a rupture with Spain.

As to the sending a Minister here, they made excuses in the first conference, seem disposed to it in the second, and in the last express an intention of so doing.

Their views being thus sufficiently ascertained, I have directed Mr. Morris to discontinue his communications with them.

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OPINION ON THE CONSTITUTIONALITY OF A NATIONAL BANK

February 15, 1791.

The bill for establishing a National Bank undertakes among other things:—

1. To form the subscribers into a corporation.

2. To enable them in their corporate capacities to receive grants of land; and so far is against the laws of *Mortmain*.[1]

3. To make alien subscribers capable of holding land; and so far is against the laws of *Alienage*.

4. To transmit these lands, on the death of a proprietor, to a certain line of successors; and so far changes the course of *Descents*.

5. To put the lands out of the reach of forfeiture or escheat; and so far is against the laws of *Forfeiture and Escheat*.

6. To transmit personal chattels to successors in a certain line; and so far is against the laws of *Distribution*.

7. To give them the sole and exclusive right of banking under the national authority; and so far is against the laws of Monopoly.

8. To communicate to them a power to make laws paramount to the laws of the States: for so they must be construed, to protect the institution from the control of the State legislatures; and so, probably, they will be construed.

[1] Though the Constitution controls the laws of Mortmain so far as to permit Congress itself to hold land for certain purposes, yet not so far as to permit them to communicate a similar right to other corporate bodies.—*T. J.*

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I consider the foundation of the Constitution as laid on this ground: That "all powers not delegated to the United States, by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people." [XIIth amendment.] To take a single step beyond the boundaries thus specially drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition.

The incorporation of a bank, and the powers assumed by this bill, have not, in my opinion, been delegated to the United States, by the Constitution.

I. They are not among the powers specially enumerated: for these are: 1st. A power to lay taxes for the purpose of paying the debts of the United States; but no debt is paid by this bill, nor any tax laid. Were it a bill to raise money, its origination in the Senate would condemn it by the Constitution.

2d. "To borrow money." But this bill neither borrows money nor ensures the borrowing it. The proprietors of the bank will be just as free as any other money holders, to lend or not to lend their money to the public. The operation proposed in the bill, first, to lend them two millions, and then to borrow them back again, cannot change the nature of the latter act, which will still be a payment, and not a loan, call it by what name you please.

3. To "regulate commerce with foreign nations, and among the States, and with the Indian tribes." To erect a bank, and to regulate commerce, are very different acts. He who erects a bank, creates a subject of commerce in its bills; so does he who

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makes a bushel of wheat, or digs a dollar out of the mines; yet neither of these persons regulates commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for buying and selling. Besides, if this was an exercise of the power of regulating commerce, it would be void, as extending as much to the internal commerce of every State, as to its external. For the power given to Congress by the Constitution does not extend to the internal regulation of the commerce of a State, (that is to say of the commerce between citizen and citizen,) which remain exclusively with its own legislature; but to its external commerce only, that is to say, its commerce with another State, or with foreign nations, or with the Indian tribes. Accordingly the bill does not propose the measure as a regulation of trade, but as "productive of considerable advantages to trade." Still less are these powers covered by any other of the special enumerations.

II. Nor are they within either of the general phrases, which are the two following:—

1. To lay taxes to provide for the general welfare of the United States, that is to say, "to lay taxes for *the purpose* of providing for the general welfare." For the laying of taxes is the *power*, and the general welfare the *purpose* for which the power is to be exercised. They are not to lay taxes *ad libitum for any purpose they please;* but only *to pay the debts or provide for the welfare of the Union.* In like manner, they are not *to do anything they please* to provide for the general welfare, but only to *lay taxes* for that

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purpose. To consider the latter phrase, not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please, which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless.

It would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they please.

It is an established rule of construction where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument, and not that which would render all the others useless. Certainly no such universal power was meant to be given them. It was intended to lace them up straitly within the enumerated powers, and those without which, as means, these powers could not be carried into effect. It is known that the very power now proposed *as a means* was rejected as *an end* by the Convention which formed the Constitution. A proposition was made to them to authorize Congress to open canals, and an amendatory one to empower them to incorporate. But the whole was rejected, and one of the reasons for rejection urged in debate was, that then they would have a power to erect a bank, which would render the great cities, where there were prejudices and jealousies on the subject, adverse to the reception of the Constitution.

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2. The second general phrase is, "to make all laws *necessary* and proper for carrying into execution the enumerated powers." But they can all be carried into execution without a bank. A bank therefore is not *necessary*, and consequently not authorized by this phrase.

It has been urged that a bank will give great facility or convenience in the collection of taxes. Suppose this were true: yet the Constitution allows only the means which are "*necessary*," not those which are merely "convenient" for effecting the enumerated powers. If such a latitude of construction be allowed to this phrase as to give any non-enumerated power, it will go to every one, for there is not one which ingenuity may not torture into a *convenience* in some instance *or other*, to *some one* of so long a list of enumerated powers. It would swallow up all the delegated powers, and reduce the whole to one power, as before observed. Therefore it was that the Constitution restrained them to the *necessary* means, that is to say, to those means without which the grant of power would be nugatory.

But let us examine this convenience and see what it is. The report on this subject, page 3, states the only *general* convenience to be, the preventing the transportation and re-transportation of money between the States and the treasury, (for I pass over the increase of circulating medium, ascribed to it as a want, and which, according to my ideas of paper money, is clearly a demerit.) Every State will have to pay a sum of tax money into the treasury; and the treasury will have to pay, in every State, a part

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of the interest on the public debt, and salaries to the officers of government resident in that State. In most of the States there will still be a surplus of tax money to come up to the seat of government for the officers residing there. The payments of interest and salary in each State may be made by treasury orders on the State collector. This will take up the greater part of the money he has collected in his State, and consequently prevent the great mass of it from being drawn out of the State. If there be a balance of commerce in favor of that State against the one in which the government resides, the surplus of taxes will be remitted by the bills of exchange drawn for that commercial balance. And so it must be if there was a bank. But if there be no balance of commerce, either direct or circuitous, all the banks in the world could not bring up the surplus of taxes but in the form of money. Treasury orders then, and bills of exchange may prevent the displacement of the main mass of the money collected, without the aid of any bank; and where these fail, it cannot be prevented even with that aid.

Perhaps, indeed, bank bills may be a more *convenient* vehicle than treasury orders. But a little *difference* in the degree of *convenience*, cannot constitute the necessity which the constitution makes the ground for assuming any non-enumerated power.

Besides; the existing banks will, without a doubt, enter into arrangements for lending their agency, and the more favorable, as there will be a competition among them for it; whereas the bill delivers us up bound to the national bank, who are free to refuse

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all arrangement, but on their own terms, and the public not free, on such refusal, to employ any other bank. That of Philadelphia, I believe, now does this business, by their post-notes, which, by an arrangement with the treasury, are paid by any State collector to whom they are presented. This expedient alone suffices to prevent the existence of that *necessity* which may justify the assumption of a non-enumerated power as a means for carrying into effect an enumerated one. The thing may be done, and has been done, and well done, without this assumption; therefore, it does not stand on that degree of *necessity* which can honestly justify it.

It may be said that a bank whose bills would have a currency all over the States, would be more convenient than one whose currency is limited to a single State. So it would be still more convenient that there should be a bank, whose bills should have a currency all over the world. But it does not follow from this superior conveniency, that there exists anywhere a power to establish such a bank; or that the world may not go on very well without it.

Can it be thought that the Constitution intended that for a shade or two of *convenience*, more or less, Congress should be authorized to break down the most ancient and fundamental laws of the several States; such as those against Mortmain, the laws of alienage, the rules of descent, the acts of distribution, the laws of escheat and forfeiture, the laws of monopoly? Nothing but a necessity invincible by any other means, can justify such a prostitution of laws, which constitute the pillars of our whole

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system of jurisprudence. Will Congress be too straight-laced to carry the constitution into honest effect, unless they may pass over the foundation-laws of the State government for the slightest convenience of theirs?

The negative of the President is the shield provided by the constitution to protect against the invasions of the legislature: 1. The right of the Executive. 2. Of the Judiciary. 3. Of the States and State legislatures. The present is the case of a right remaining exclusively with the States, and consequently one of those intended by the Constitution to be placed under its protection.

It must be added, however, that unless the President's mind on a view of everything which is urged for and against this bill, is tolerably clear that it is unauthorised by the Constitution; if the pro and the con hang so even as to balance his judgment, a just respect for the wisdom of the legislature would naturally decide the balance in favor of their opinion. It is chiefly for cases where they are clearly misled by error, ambition, or interest, that the Constitution has placed a check in the negative of the President.

REPORT ON ADMISSION OF VERMONT J. MSS.

[Feb. 19, 1791]

The Secretary of state having received from the commissioners for the state of Vermont a letter proposing these Questions 1. Whether as that state will not be a distinct member of the union till the 4th. day of March next, the President can, before

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that day, nominate officers for it? and 2. if he can not, whether he can nominate them, after the recess of the Senate? makes thereon to the President of the U. S. the following Report:

He is of opinion the President cannot, before the 4th. of March, make nominations which will be good in law: because, till that day, it will not be a separate & integral member of the U. S. and it is only to integral members of the union that his right of nomination is given by the Constitution.

But that nomination may be made on the 4th. of March, and, if the Senate will meet on that day, may be reported to them for their approbation. It is true that the two or three new members will be absent, unless they chuse to come in for this purpose; but as the occasion of consulting an imperfect Senate will not be produced by any act of the President, and as it is in the power of the new Senators to render the body perfect, by coming on if they chuse it, this difficulty appears smaller, than that of making original nominations without the concurrence of the Senate. This therefore is what the Secretary of State thinks best to be done.

TO THE REV. WILLIAM SMITH [1]

PHILADELPHIA, Feb. 19. 1791.

DEAR SIR, — I feel both the wish & the duty to communicate, in compliance with your request,

[1] The address of this letter is absolutely illegible, but Smith had been requested by Congress to deliver an oration on Franklin, and in the oration as published he includes some of these facts.

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whatever, within my knowledge, might render justice to the memory of our great countryman, Dr Franklin, in whom Philosophy has to deplore one of it's principal luminaries extinguished. But my opportunities of knowing the interesting facts of his life have not been equal to my desire of making them known. I could indeed relate a number of those bon mots, with which he used to charm every society, as having heard many of them. But these are not your object. Particulars of greater dignity happened not to occur during his stay of nine months, after my arrival in France.

A little before that, Argand had invented his celebrated lamp, in which the flame is spread into a hollow cylinder, & thus brought into contact with the air within as well as without. Doctr Franklin had been on the point of the same discovery. The idea had occurred to him; but he had tried a bull-rush as a wick, which did not succeed. His occupations did not permit him to repeat & extend his trials to the introduction of a larger column of air than could pass through the stem of a bull-rush.

The animal magnetism too of the maniac Mesmer, had just received its death wound from his hand in conjunction with his brethren of the learned committee appointed to unveil that compound of fraud & folly. But, after this, nothing very interesting was before the public, either in philosophy or politics, during his stay; & he was principally occupied in winding up his affairs there.

I can only therefore testify in general that there appeared to me more respect & veneration attached

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to the character of Doctor Franklin in France, than to that of any other person in the same country, foreign or native. I had opportunities of knowing particularly how far these sentiments were felt by the foreign ambassadors & ministers at the court of Versailles. The fable of his capture by the Algerines, propagated by the English newspapers, excited no uneasiness; as it was seen at once to be a dish cooked up to the palate of their readers. But nothing could exceed the anxiety of his diplomatic brethren, on a subsequent report of his death, which, tho' premature, bore some marks of authenticity.

I found the ministers of France equally impressed with the talents & integrity of Doct^r^ Franklin. The C^t^ de Vergennes particularly gave me repeated and unequivocal demonstrations of his entire confidence in him.

When he left Passy, it seemed as if the village had lost its patriarch. On taking leave of the court, which he did by letter, the king ordered him to be handsomely complimented, & furnished him with a litter & mules of his own, the only kind of conveyance the state of his health could bear.

No greater proof of his estimation in France can be given than the late letters of condolence on his death, from the National Assembly of that country, & the Community of Paris, to the President of the United States, & to Congress, and their public mourning on that event. It is, I believe, the first instance of that homage having been paid by a public body of one nation to a private citizen of another.

His death was an affliction which was to happen to

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us at some time or other. We have reason to be thankful he was so long spared; that the most useful life should be the longest also; that it was protracted so far beyond the ordinary span allotted to man, as to avail us of his wisdom in the establishment of our own freedom, & to bless him with a view of its dawn in the east, where they seemed, till now, to have learned everything, but how to be free.

The succession to Dr Franklin, at the court of France, was an excellent school of humility. On being presented to any one as the minister of America, the commonplace question used in such cases was "*c'est vous, Monsieur, qui remplace le Docteur Franklin?*" "it is you, Sir, who replace Doctor Franklin?" I generally answered, "no one can replace him, Sir: I am only his successor."

These small offerings to the memory of our great & dear friend, whom time will be making greater while it is spunging us from it's records, must be accepted by you, Sir, in that spirit of love & veneration for him, in which they are made; and not according to their insignificance in the eyes of a world, who did not want this mite to fill up the measure of his worth.

DRAFT OF PRESIDENT'S MESSAGE TRANSMITTING VERMONT APPOINTMENTS [1] J. MSS.

[Mar. 4, 1791.]

GENTLEMEN OF THE SENATE:

The 'act for the admission of the state of Vermont into this Union' having fixed on this, as the day of

[1] See *Journals of the Executive Proceedings of the Senate*, I, 80.

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it's admission, it was thought that this would also be the first day on which any officer of the Union might legally perform any act of authority relating to that state. I therefore required your attendance to receive nominations of the several officers necessary to put the federal government into motion in that state.

For this purpose I nominate &c.

TO HARRY INNES J. MSS.

PHILADELPHIA, Mar. 7, 1791.

DEAR SIR,—Your favor of July 8. came to my hands Nov. 30. The infrequency of conveyances, is an apology for this late answer. I receive with pleasure this recognition & renewal of your former acquaintance, and shall be happy to continue it by an exchange of epistolary communications. Yours to me will be always welcome. Your first gives me information in the line of Natural history, & the second (not yet received) promises political news. The first is my passion, the last is my duty, and therefore both desireable. I believe entirely with you, that the remains of fortifications found in the Western country have been the works of the natives. Nothing I have ever yet heard of proves the existence of a nation here who knew the use of iron. I have never heard even of *burnt* bricks, though they might be made without iron. The statue you have been so kind as to send me, and for which I beg you to accept my thanks, would, because of the hardness

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of the stone, be a better proof of the use of iron, than I ever yet saw; but as it is a solitary fact, and possible to have been made with implements of stone, and great patience, for which the Indians are remarkable, I consider it to have been so made. It is certainly the best piece of workmanship I ever saw from their hands. If the artist did not intend it, he has very happily hit on the representation of a woman in the first moments of parturition.

Mr. Brown, the bearer of this, will give you the Congressional news, some good, some so so, like everything else in this world. Our endeavors the last year to punish your enemies have had an unfortunate issue. The federal council has yet to learn by experience, what experience has long ago taught us in Virginia, that rank and file fighting will not do against Indians. I hope this year's experiment will be made in a more auspicious form. Will it not be possible for you to bring General Clark forward? I know the greatness of his mind & am the more mortified at the cause which obscures it. Had not this unhappily taken place, there was nothing he might not have hoped: could it be surmounted, his lost ground might yet be recovered. No man alive rated him higher than I did, & would again, were he to become again what I knew him. We are made to hope he is engaged in writing the account of his expeditions north of Ohio. They will be valuable morsels of history, and will justify to the world those who have told them how great he was.

Mr. Brown will tell you also that we are not inattentive to the interests of your navigation. No-

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thing short of actual rupture is omitted. What it's effect will be, we cannot yet foretell; but we should not stop even here, were a favorable conjuncture to arise. The move we have now made must bring the matter to issue. I can assure you of the most determined zeal of our chief magistrate in this business, and I trust mine will not be doubted so far as it can be of any avail. The nail will be driven as far as it will go peaceably, and farther the moment that circumstances become favorable.

TO THE U. S. CHARGÉ D'AFFAIRES IN FRANCE[1]
(WILLIAM SHORT) J. MSS.

PHILADELPHIA Mar. 8, 1791.

DEAR SIR,— * * * *No decision yet with respect to the missions, either of France or Holland. The less they are pressed the better for your wishes, as the President will know you more and more himself. To overdo a thing with him is to undo it. I am steering the best I can for you. The excessive unpopularity of the excise and bank bills in the South I apprehend will produce a stand against the Federal Government. In this case the public paper will tumble precipitately. I wish there were some one here authorized to read [sell?] out yours, because if the danger does not take place, or passes easily, he could buy in again to advantage. Indeed you could not do better than subscribe it into the bank, where you can not receive less than six per cent,*

[1] This is merely a cipher paragraph in an otherwise formal routine letter.

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and may perhaps receive ten. Very particular reasons prohibit me from acting for you in this way. By no means appoint any body of the Treasury.

TO THE GOVERNOR OF FLORIDA (QUESADA) J. MSS.

PHILADELPHIA, March 10, 1791.

SIR,—We have received with great satisfaction, notification of the orders of his Catholic Majesty, not to permit that persons, held in slavery within the United States, introduce themselves as free persons into the Province of Florida. The known justice of his Majesty and his Government was a certain dependence to us, that such would be his will. The assurances your Excellency has been pleased to give us of your friendly dispositions, leave us no doubt you will have faithfully executed a regulation so essential to harmony and good neighborhood. As a consequence of the same principles of justice and friendship, we trust that your Excellency will permit, and aid the recovery of persons of the same description, who have heretofore taken refuge within your Government. The bearer hereof is authorized to wait on your Excellency to confer on this subject, and to concur in such arrangements as you shall approve for the recovery of such fugitives.

I beg you to be assured that no occasion shall be neglected of proving our dispositions to reciprocate these principles of justice and friendship, with the subjects of his Catholic Majesty, and that you will

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be pleased to accept the homage of those sentiments of respect and esteem, with which I have the honor to be, Sir, your most obedient, and most humble servant.

TO THE U. S. CHARGÉ D'AFFAIRES IN SPAIN
(WILLIAM CARMICHAEL) J. MSS.

PHILADELPHIA March 12th, 1791.

SIR,—I enclose you a statement of the case of Joseph St Marie a citizen of the United States of America, whose clerk Mr Swimmer was, in the latter part of the year 1787, seized on the Eastern side of the Mississippi, in latitude 34°-40′, together with his goods, of the value of 1980 dollars, by a party of Spanish soldiers. They justified themselves under the order of a M[r] Valliere their officer, who avowed authority from the Governor of New Orleans, requiring him to seize and confiscate all property found on *either side of the Mississippi below the mouth of the Ohio*. The matter being then carried by S[te] Marie before the Governor of New Orleans, instead of correcting the injury, he avowed the Act and it's principle, and pretended orders from his Court for this and more. We have so much confidence however in the moderation and friendship of the Court of Madrid, that we are more than ready to ascribe this outrage to Officers acting at a distance, than to orders from a just sovereign. We have hitherto considered the delivery of the post of the Natchez on the part of Spain, as only awaiting the result of those arrangements which have been under amicable

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discussion between us; but the remaining in possession of a Post, which is so near our limit of 31° as to admit some colour of doubt whether it be on our side or theirs, is one thing, while it is a very different one to launch 250 miles further, and to seize the persons and property of our citizens; and that too in the very moment that a friendly accommodation of all differences is under discussion. Our respect for their candour and good faith does not permit us to doubt that proper notice will be taken of the presumption of their Officer, who has thus put to hazard the peace of both Nations; and we particularly expect that indemnification will be made to the individual injured. On this you are desired to insist in the most friendly terms, but with that earnestness and perseverance which the complexion of this wrong requires. The papers enclosed will explain the reasons of the delay which has intervened. It is but lately they have been put in the hands of our Government.

We cannot omit this occasion of urging on the Court of Madrid the necessity of hastening a final acknowledgment of our right to navigate the Mississippi: a right which has been long suspended in exercise, with extreme inconvenience on our part, merely with a desire of reconciling Spain to what it is impossible for us to relinquish. An accident at this day, like that now complained of, would put further parley beyond our power; yet to such accidents we are every day exposed by the irregularities of their officers, and the impatience of our citizens. Should any spark kindle these dispositions of our

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borderers into a flame, we are involved beyond recall by the eternal principles of justice to our citizens, which we will never abandon. In such an event, Spain cannot possibly gain, what may she not lose?—

The boldness of this act of the Governor of New Orleans and of his avowal of it, renders it essential to us to understand the Court of Spain on this subject. You will therefore avail yourself of the earliest occasions of obtaining their sentiments, and of communicating them to us.

TO THE U. S. CHARGÉ D'AFFAIRES IN FRANCE J. MSS. (WILLIAM SHORT)

PHILADELPHIA, March 12, 1791.

DEAR SIR,—The enclosed papers will explain to you a case which imminently endangers the peace of the United States with Spain. It is not, indeed, of recent date, but it has been recently laid before government, and is of so bold a feature as to render dangerous to our rights a further acquiescence in their suspension. The middle ground held by France between us and Spain, both in friendship and interest, requires that we should communicate with her with the fullest confidence on this occasion. I therefore enclose you a copy of my letter to Mr. Carmichael, and of the papers it refers to, to be communicated to Monsieur de Montmorin, whose efficacious interference with the court of Madrid you are desired to ask. We rely with great confidence on his friendship, justice and influence.

A cession of the navigation of the Mississippi, with

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such privileges as to make it useful, and free from future chicane, can be no longer dispensed with on our part; and perhaps while I am writing, something may have already happened to cut off this appeal to friendly accommodation. To what consequences such an event would lead, cannot be calculated. To such, very possibly, as we should lament, without being able to control. Your earnestness with Monsieur de Montmorin, and with the court of Spain, cannot be more pressing than the present situation and temper of this country requires. The case of St. Marie happens to be the incident presenting itself in the moment, when the general question must otherwise have been brought forward. We rely, on this occasion, on the good offices of the Marquis de La Fayette, whom you are desired to interest in it.

TO HARRY INNES J. MSS.

PHILADELPHIA, March 13, 1791.

DEAR SIR,—Your favour of Feb 20 came to my hands only four days ago, and I have taken the first moment in my power to prepare my answer, which I now enclose. It is in fact a copy of what I had prepared while in Virginia, when I had the subject under contemplation, except that some useless asperities are rubbed off. I am in hopes either Mr. G. Carr, or Mr Anderson of Richmond has given you a copy of my Opinions of June 20, 1783. and Sept 28, 1790, wherein I have cited the cases upon which I ground my defence for my nephew. I consider that of Pouri & Corbet 3 Fr. Atk, 556. as establishing a rule

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of construction peculiarly applicable to our case & decisive of it.

What is said with you of the most prominent proceedings of the last Congress? The disapprobation of the assumption with you leads us naturally to attend to your reception of laws for carrying it into effect, which have been thought to present themselves in an unfavorable view. What will be thought of measures taken to force Gr Britain by a navigation act, to come forward in fair treaty, and let us substantially into her islands, as a price for the advantages in navigation and commerce which she now derives from us? This is interesting to our agriculture, provided the means adopted be sufficiently gradual. I wish you would come forward to the federal legislature and give your assistance on a larger scale than that on which you are acting at present. I am satisfied you could render essential service, and I have such confidence in the purity of your republicanism, that I know your efforts would go in a right direction. Zeal and talents added to the republican scale will do no harm in Congress. It is fortunate that our first executive magistrate is purely and zealously republican. We cannot expect all his successors to be so, and therefore should avail ourselves the present day to establish principles and examples which may fence us against future heresies preached now, to be practised hereafter. I repeat my wish that I could see you come into the federal councils; no man living joining more confidence in your principles and talents to higher personal esteem than, dear Sir, your most obedient humble servant.

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TO THE U. S. MINISTER TO PORTUGAL J. MSS.
(DAVID HUMPHREYS)

PHILADELPHIA Mar. 15, 1791.

DEAR SIR,—Your letters N° 1. to 6. from England, N° 7. 8. from Lisbon & N° 9. from Madrid are all received.

The President has nominated you minister Resident for the U. S. of America at the Court of Lisbon, which was approved by the Senate. You will consequently receive herewith your Commission, a letter of credence to the Queen, sealed, and an open copy of it for your own information, & a letter to Monsr. de Pinto her Secretary for foreign affairs. Your salary is fixed at four thousand five hundred dollars a year, and an Outfit equal to a year's salary. Besides this you will be allowed your disbursements for any gazettes you think proper to be transmitted here, translating & printing papers where that shall be necessary, postage, couriers, & necessary Aids to poor American sailors, unless the latter article should be provided for by the consulage fees allowed by the laws of Portugal as has been said. I state these things particularly that you may be under no doubt as to what you may charge & what you may not charge to the public. I expect from the Secretary of the treasury, in time to go with this letter, information how you are to be furnished with these sums of money. You will be pleased annually to state your account on the 1st. day of July, to the end of the preceding day, & to send it to me by the first conveyance afterwards, to enable me to make up a general account of the foreign fund in time to

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be laid before Congress at their meeting. We shall name a Consul for the port of Lisbon as soon as a proper native shall occur.

The title of the book you desired is "the Privileges of an Englishman in the Kingdoms & dominions of Portugal contained in the treaty of Oliver Cromwell &c. in Portuguese & English. Sold at the Portugal Coffee house in Smithin's Alley 1736. 8vo"

I inclose you the copy of a navigation act proposed in the late Congress, but which lies over to the next, as their time being up on the 3d. of March they were obliged to postpone everything which would admit of it. It will be taken up at the meeting of the next which will be on the 4th. Monday of October. This Act is perfectly innocent as to other nations, is strictly just as to the English, cannot be parried by them, & if adopted by other nations would inevitably defeat their navigation act & reduce their power on the sea within safer limits. It is indeed extremely to be desired that other nations would adopt it. I send copies of it to Mr. Short & Mr. Carmichael. Could those three countries agree to concur in such a measure it would soon be fatally felt by the navy of England. No body can better judge of its effect than Mr. Pinto, to whom I would wish you to communicate it, & see whether he would not think it expedient for Portugal.

I inclose you a letter for Mr. Carmichael, which being of importance, I wish you could find a safe private conveyance for it. We have no letter from him since you left this. You will also receive by this conveyance the newspapers to the present date.

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The President sets out within a day or two for the Southern states, and will probably not return till June. We are in hourly hope of receiving another letter from you dated from Madrid. * * *

TO THE U. S. CHARGÉ D'AFFAIRES IN SPAIN.
(WILLIAM CARMICHAEL.) J. MSS.

PHILADELPHIA. Mar. 17, 1791.

SIR,—The term of the first Congress having expired on the 3d inst. they separated on that day, much important business being necessarily postponed. New elections have taken place for the most part, & very few changes made. This is one of many proofs that the proceedings of the new government have given general satisfaction. Some acts indeed have produced local discontents; but these can never be avoided. The new Congress will meet on the 4th Monday of October. Inclosed is the copy of an act reported by a committee of the late Congress, who not having time to go through the subject, referred it to me, to be examined & reported to the next Congress. This measure therefore will be proposed to them as a first & immediate step, and perhaps something further at a more distant day. I have sent copies of this Act to Mr. Short & Colº Humphreys & I inclose this to you, that you may communicate it to the court of Madrid as a measure in contemplation with us. How far such an one may be politic to be adopted by Spain, France & Portugal is for them to consider. The measure is per-

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fectly innocent as to all nations except those, or rather that, which has a navigation act; and to that it retorts only it's own principles. Being founded in universal reciprocity, it is impossible it should excite a single complaint. It's consequences on that nation are such as they cannot avoid; for either they must repeal their navigation act, in order to be let in to a share of foreign carriage, or the shipping they now employ in foreign carriage will be out of employ, and this act frustrated on which their naval power is built. Consequently that power will be reduced within safer limits, and the freedom of the ocean be better secured to all the world. The more extensive the adoption of this measure is, the more irritable will be it's effect. We would not wish to be declared the excitors of such a concert of measures, but we have thought it expedient to suggest informally to the courts of France, Spain & Portugal the measure we propose to take, and to leave with them to decide, on the motives of their own interest, how far it may be expedient for them to adopt a similar measure. Their concurrence will more completely ensure the object of our Act, and therefore I leave it to yourself to insinuate it with all the discretion and effect you can.

Your letter of May 6. 1789. is still the last we have received, & that is now near two years old. A letter from Col? Humphreys written within 24. hours after his arrival at Madrid reached us within two months & 10. days after it's date. A full explanation of the causes of this suspension of all information from you, is expected in answer to my letter of Aug. 6. It will

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be waited for yet a reasonable time, & in the mean while a final opinion suspended. By the first vessel to Cadiz the laws & gazettes shall be forwarded.

TO THE U. S. CHARGÉ D'AFFAIRES IN FRANCE
(WILLIAM SHORT) J. MSS.

PHILADELPHIA, March 19, 1791.

DEAR SIR,—Your letter of November the 6th, No. 46, by Mr. Osmont, came to hand yesterday, and I have just time, before the departure of Mr. Terrasson, the bearer of my letter of the 15th instant, and despatches accompanying it, to acknowledge the receipt, and inform you that it has been laid before the President. On consideration of the circumstances stated in the second page of your letter, he is of opinion, that it is expedient to press at this moment a settlement of our difference with Spain. You are therefore desired, instead of confining your application for the interference of the court of France, to the simple case of St. Marie, mentioned in my letter of the 12th, to ask it on the broad bottom of general necessity, that our right of navigating the Mississippi be at length ceded by the court of Madrid, and be ceded in such form, as to render the exercise of it efficacious and free from chicane. This cannot be without an entrepôt in some convenient port of the river, where the river and sea craft may meet and exchange loads, without any control from the laws of the Spanish government. This subject was so fully developed to you in my letter of August the

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10th, 1790, that I shall at present only refer to that. We wish you to communicate this matter fully to the Marquis de La Fayette, to ask his influence and assistance, assuring him that a settlement of this matter is become indispensable to us; any further delay exposing our peace, both at home and abroad, to accidents, the result of which are incalculable, and must no longer be hazarded. His friendly interposition on this occasion, as well as that of his nation, will be most sensibly felt by us. To his discretion, therefore, and yours, we confide this matter, trusting that you will so conduct it as to obtain our right in an efficacious form, and at the same time to preserve to us the friendship of France and Spain, the latter of which we value much, and the former infinitely.

Mr. Carmichael is instructed to press this matter at Madrid; yet if the Marquis and yourself think it could be better effected at Paris, with the Count de Nunnez, it is left to you to endeavor to try it there. Indeed, we believe it would be more likely to be settled there, than at Madrid or here. Observe always, that to accept the navigation of the river without an entrepôt would be perfectly useless, and that an entrepôt, if tramelled, would be a certain instrument for bringing on war instead of preventing it.

TO THE ATTORNEY OF THE DISTRICT OF KENTUCKY (GEORGE NICHOLAS) J. MSS.

PHILADELPHIA, Mar. 22. 1791.

SIR,—A certain James O'Fallon is, as we are informed, undertaking to raise, organize & commission

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an army, of his own authority, & independant of that of the government, the object of which is to go and possess themselves of lands which have never yet been granted by any authority which the government admits to be legal, and with an avowed design to hold them by force against any power, foreign or domestic. As this will inevitably commit our whole nation in war with the Indian nations and perhaps others, it cannot be permitted that all the inhabitants of the U. S. shall be involved in the calamities of war, and the blood of thousands of them be poured out, merely that a few adventurers may possess themselves of lands: nor can a well ordered government tolerate such an assumption of it's sovereignty by unauthorized individuals. I send you herein the attorney general's opinion of what may legally be done, with a desire that you proceed against the said O'Fallon according to law. It is not the wish, to extend the prosecution to other individuals, who may have given thoughtlessly into this unlawful proceeding. I enclose you a proclamation to this effect. But they may be assured, that if this undertaking be prosecuted, the whole force of the U. S. will be displayed to punish the transgression. I enclose you one of O'Fallon's commissions, signed, as is said, by himself.

TO MARTHA JEFFERSON RANDOLPH [1]

PHILADELPHIA, March 24th, 1791.

MY DEAR DAUGHTER,—The badness of the roads retards the posts, so that I have received no letter

[1] From S. N. Randolph's *Domestic Life of Jefferson*, p. 194.

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this week from Monticello. I shall hope soon to have one from yourself; to know from that that you are perfectly re-established, that the little Anne is becoming a big one, that you have received Dr. Gregory's book and are daily profiting from it. This will hardly reach you in time to put you on the watch for the annular eclipse of the sun, which is to happen on Sunday se'nnight to begin about sunrise. It will be such a one as is rarely to be seen twice in one life. I have lately received a letter from Fulwar Skipwith, who is counsul for us in Martinique and Guadaloupe. He fixed himself first in the former, but has removed to the latter. Are many of your acquaintances in either of these islands? If they are I wish you would write to them and recommend him to their acquaintance. He will be a sure medium through which you may exchange souvenirs with your friends of a more useful kind than those of the convent. He sent me half a dozen pots of very fine sweatmeats. Apples and cider are the greatest presents which can be sent to those islands. I can make those presents for you whenever you choose to write a letter to accompany them, only observing the season for apples. They had better deliver their letters for you to F. S. Skipwith. Things are going on well in France, the Revolution being past all danger. The National Assembly being to separate soon, that event will seal the whole with security. Their islands, but more particularly St. Domingo and Martinique, are involved in a horrid civil war. Nothing can be more distressing than the situation of their inhabitants, as their slaves have

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been called into action, and are a terrible engine, absolutely ungovernable. It is worse in Martinique, which was the reason Mr. Skipwith left it. An army and fleet from France are expected every hour to quell the disorders. I suppose you are busily engaged in your garden. I expect full details on that subject as well as from Poll, that I may judge what sort of a gardener you make. Present me affectionately to all around you, and be assured of the tender and unalterable love of yours.

TO THE GOVERNOR OF GEORGIA [1]

(WILLIAM TELFAIR)

PHILADELPHIA, Mar. 26, 1791.

SIR,—Your favor of the 2d of January was received the 4th instant. The dispositions expressed by the Governour of Florida give reason to hope he will execute with good faith the orders of his Sovereign to prevent the future reception within his province of slaves flying from the United States. How far he may think himself authorized to give up those who have taken refuge there heretofore is another question. I observe that the orders he announces to have received say nothing of the past. It is probable therefore that an application from us to give them retrospective effect, may require his asking new orders from his Court. The delay which will necessarily attend the answer, the doubts what that

[1] From a copy courteously furnished by Colonel C. C. Jones, of Augusta, Georgia.

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answer may be, & if what we wish, the facility of evading the execution if there be a disposition to evade it, are circumstances to be weighed beforehand, as well as the probable amount of the interest it would be possible to recover. If this last be small, it may be questionable how far the government ought in prudence to commit itself by a demand of such dilatory & doubtful effect. As the President will be at Augusta in the course of the tour in which he is now engaged, you will have an opportunity of explaining to him the extent of the losses complained of, & how far they could probably be recovered, even were the dispositions of your neighbours favourable to the recovery, & what those dispositions may actually be.

TO THE FRENCH CHARGÉ D'AFFAIRES[1] J. MSS.

(L. W. OTTO)

March 29, 1791.

SIR,—The note of December 13th. which you did me the honor to address to me on the acts of Congress of the 20th. of July 1789 and 1790, fixing the tonnage payable by foreign vessels arriving from a foreign port *without excepting those of France*, has been submitted to the Government of the United States. They consider the conduct of his most Christian Majesty in making this the subject of fair discussion and explanation as a new proof of his justice and friendship and they have entered on the consideration with all the respect due to whatever comes

[1] See *ante*, page 175 for the Report on this dispute.

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from his Majesty or his Ministers, and with all the dispositions to find grounds for an union of opinion which a sincere attachment to your nation and a desire to meet their wishes on every occasion could inspire. But the 5th Article of the Treaty of Amity and Commerce is not seen here exactly in the point of view in which your note places it.

The 3d. and 4th. Articles subject the vessels of each nation to pay in the ports of the other, only such duties as are paid by the most favoured nation: and give them reciprocally all the privileges and exemptions in navigation and commerce, which are given by either to the most favoured nations. Had the contracting parties stopped here, they would have been free to raise or lower their tonnage as they should find it expedient; only taking care to keep the other on the footing of the most favoured nation.

The question then is whether the 5th Article, cited in the note, is anything more than an application of the principle comprised in the 3d. and 4th. to a particular object? or whether it is an additional stipulation of some thing not so comprised?

I. That it is merely an application of a principle comprised in the preceding Articles, is declared by the express words of the Article, to wit, "*Dans l'exemption cidessus* est *nommément compris* &c." *in the above exemption* is *particularly comprised* the imposition of 100. sols per ton established in France on foreign vessels. Here then is at once an express declaration that the exemption from the duty of 100 sols, is *comprised* in the 3d. and 4th. Articles; that is to say, it was one of the exemptions enjoyed by the

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most favoured nations, and, as such, extended to us by those Articles. If the exemption spoken of in this 1st. member of the 5th. Article was *comprised* in the 3d. and 4th. Articles, as is expressly declared, then the reservation by France out of that exemption (which makes the 2d member of the same Article) *was also comprised:* that is to say, if *the whole* was comprised *the part* was comprised. And if this reservation of France in the 2d. member was comprised in the 3d. and 4th. Articles, then the counter reservation by the United States (which constitutes the 3d. and last member of the same Article) was also comprised. Because it is but a corresponding portion of a similar whole on our part, which had been comprised by the same terms with theirs.

In short the whole article relates to a particular duty of 100. sols laid by some antecedent law of France on the vessels of foreign nations, relinquished as to the most favoured, and consequently to us. It is not a new and additional stipulation then, but a declared application of the stipulations comprised in the preceding articles to a particular case, by way of greater caution.

The doctrine laid down generally in the 3d and 4th Articles, and exemplified specially in the 5th amounts to this. "The vessels of the most favoured nations, coming from foreign ports, are exempted from the duty of 100. sols: therefore you are exempted from it by the 3d and 4th Articles. The vessels of the most favoured nations, coming coastwise, pay that duty; therefore you are to pay it by the 3d and 4th Articles. We shall not think it

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unfriendly in you to lay a like duty on coasters, because it will be no more than we have done ourselves. You are free also to lay that or any other duty on vessels coming from foreign ports, provided they apply to all other nations, even the most favoured. We are free to do the same, under the same restriction: but exempting you from a duty which the most favoured nations do not pay, does not exempt you from one which they do pay."

In this view it is evident that the 5th Article neither enlarges, nor abridges the stipulations of the 3d and 4th. The effect of the Treaty would have been precisely the same had it been omitted altogether; consequently it may be truly said that the reservation by the United States in this Article is completely useless. And it may be added with equal truth that the equivalent reservation by France is completely useless: as well as her previous abandonment of the same duty; and in short the whole article. Each party then remains free to raise or lower it's tonnage, provided the change operates on all nations, even the most favoured.

Without undertaking to affirm, we may obviously conjecture, that this Article has been inserted on the part of the United States from an over caution to guard, *nommement*, by name, against a particular aggrievance, which they thought they could never be too well secured against: and that has happened, which generally happens; doubts have been produced by the too great number of words used to prevent doubt.

II. The Court of France however understands

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this Article as intended to introduce something to which the preceding Articles had not reached; and not merely as an application of them to a particular case. This opinion seems to be founded on the general rule, in the construction of instruments, to leave no words merely useless, for which any rational meaning can be found. They say that the reservation by the United States of a right to lay a duty equivalent to that of the 100. sols, reserved by France, would have been completely useless, if they were left free, by the preceding Articles, to lay a tonnage to any extent whatever. Consequently that the reservation of a part proves a relinquishment of the residue.

If some meaning, and such a one, is to be given to the last member of the Article, some meaning, and a similar one, must be given to the corresponding member. If the reservation by the United States of a right to lay an equivalent duty, implies a relinquishment of their right to lay any other, the reservation by France of a right to continue the specified duty to which it is an equivalent, must imply a relinquishment of the right, on her part to lay or continue any other. Equivalent reservations by both, must imply equivalent restrictions on both. The exact reciprocity stipulated in the preceding Articles, and which pervades every part of the Treaty, ensures a counter right to each party for every right ceded to the other.

Let it be further considered—that the duty called *tonnage* in the United States is in lieu of the duties for Anchorage, for the support of Buoys, Beacons,

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and Light-houses, to guide the Mariner into harbour, and along the coast, which are provided and supported at the expence of the United States, and for fees to measurers, weighers, gaugers, &c., who are paid by the United States; for which articles, among many others (light excepted) duties are paid by us in the ports of France under their specific names. That Government has hitherto thought these duties consistent with the Treaty; and consequently the same duties under a general instead of specific monies, with us, must be equally consistent with it; it is not the name, but the thing which is essential. If we have renounced the right to lay any port duties, they must be understood to have equally renounced that of either laying new or continuing the old. If we ought to refund the port duties received from their vessels since the date of the Act of Congress, they should refund the port duties they have received from our vessels since the date of the Treaty, for nothing short of this is the reciprocity of the Treaty.

If this construction be adopted then, each party has forever renounced the right of laying any duties on the vessels of the other coming from any foreign port, or more than 100 sols on those coming coastwise. Could this relinquishment be confined to the two contracting parties alone it's effect would be calculable. But the exemption once conceded by the one nation to the other, becomes immediately the property of all others, who are on the footing of the most favoured nations. It is true that those others would be obliged to yield the same compensation,

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that is to say, to receive our vessels duty free. Whether France and the United States would gain or lose in the exchange of the measure with them, is not easy to say.

Another consequence of this construction will be that the vessels of the most favoured nations, paying no duties will be on a better footing than those of nations, which pay a moderate duty, consequently either the duty on these also must be given up, or they will be supplanted by foreign vessels in our own ports.

The resource then of duty on vessels for the purposes either of revenue or regulation, will be forever lost to both. It is hardly conceivable that either party, looking forward to all these consequences, would see their interest in them. So that on the whole, Sir, we consider the 5th article of the Treaty merely as an illustration of the 3d and 4th articles, by an application of the principles comprised in them to the case stated in that, and that a contrary construction would exceedingly embarrass and injure both the contracting parties. We feel every disposition on our part to make considerable sacrifices where they would result to the sole benefit of your nation: but where they would excite from other nations corresponding claims, it becomes necessary to proceed with caution. You probably know, Sir, that the general subject of navigation was before our Legislature at their last Session, and was postponed merely for the want of time to go through it before the period arrived to which the Constitution had limited their existence. It will be resumed at

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the meeting of the new Legislature, and from a knowledge of the sincere attachment of my Countrymen to the prosperity of your nation, and to the increase of our intercourse with it, I may safely say for the new Legislature that the encouragement of that intercourse for the advantage of both parties will be considered as among the most interesting branches of the general subject submitted to them. From a perfect conviction of the coincidence of our interests nobody wishes more sincerely to cultivate the habit of mutual good offices and favours than he who has the honor to be with sentiments of the greatest respect and esteem, Sir, your most obedient and most humble Servant.

TO MARY JEFFERSON [1]

PHILADELPHIA, March 31st, 1791.

MY DEAR MARIA,—I am happy to have a letter of yours to answer. That of March 6th came to my hands on the 24th. By-the-by, you never acknowledged the receipt of my letters, nor tell me what on day they came to hand. I presume that by this time you have received the two dressing tables with marble tops. I give one of them to your sister, and the other to you: mine is here with the top broken in two. Mr. Randolph's letter, referring to me the name of your niece, was very long on the road. I answered it as soon as I received it, and hope the answer got duly to hand. Lest it should have been

[1] From S. N. Randolph's *Domestic Life of Jefferson*, p. 196.

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delayed, I repeated last week to your sister the name of Anne, which I had recommended as belonging to both families. I wrote you in my last that the frogs had begun their songs on the 7th; since that the blue-birds saluted us on the 17th; the weeping-willow began to leaf on the 18th; the lilac and gooseberry on the 25th; and the golden-willow on the 26th. I inclose for your sister three kinds of flowering beans, very beautiful and very rare. She must plant and nourish them with her own hand this year, in order to save enough seeds for herself and me. Tell Mr. Randolph I have sold my tobacco for five dollars per c., and the rise between this and September. Warehouse and shipping expenses in Virginia, freight and storage here, come to 2s. 9d. a hundred, so that it is as if I had sold it in Richmond for 27s. 3d. credit till September, or half per cent. per month discount for the ready money. If he chooses it, his Bedford tobacco may be included in the sale. Kiss everybody for me. Yours affectionately.

TO THE PRESIDENT OF THE UNITED STATES

D. S. MSS.

PHILADELPHIA Apr. 2. 1791.

SIR,—I had the honor of addressing you on the 27th Ult. since which letters are received of Jan. 24., from Mr. Carmichael, and of Jan. 3 & 15, Madrid, and Feb. 6., and 12., Lisbon, from Colonel Humphreys. As these are interesting and may tend to settle suspense of mind to a certain degree, I shall

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trouble you with quotations from some parts & the substance of others.

Colº H. says,

"I learn from other good authority, as well as from Mr. Carmichael, that all the representations of Gardoqui (when minister in America), tended to excite a belief that the most respectable & influential people throughout the U. S. did not wish to have the navigation of the Mississippi opened for years to come, from an apprehension such an event would weaken the government & impoverish the Atlantic states by emigrations. It was even pretended that none but a handful of settlers on the Western waters, & a few inhabitants of the Southern states would acquiesce in the measure."

This is the state of mind to which they have reverted since the crisis with England is passed, for during that, the Count de Florida Blanca threw out general assertions that we should have no reason to complain of their conduct with respect to the Mississippi; which gave rise to the report it's navigation was opened. The following passages will be astonishing to you who recollect that there was not a syllable in your letters to Mr. G. M. which looked in the most distant manner to Spain. Mr. Carmichael says,

"Something however might have been done in a moment of projects and apprehension, had not a certain negotiation, carried on on our part at London, transpired, & which I think was known here rather from British policy than from the vigilance of the Marquis del Campo. Entirely unacquainted

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with this manœuvre, although in correspondence with the person employed, I was suspected to be in the secret. This suspicion banished confidence, which returns by slow degrees. This circumstance induced me to drop entirely my correspondence with G. M. To continue it would have done harm, & certainly could do no good. I have seen extracts of the President's letter communicated to the Duke of Leeds, perhaps mutilated or forged to serve here the views of the British cabinet. I do not yet despair of obtaining copies of those letters through the same channel that I procured the first account of the demands of G. B. and the signature of the late convention."

Colº Humphreys says,

"The minister had intimations from del Campo of the conferences between Mr. Morris & the Duke of Leeds, which occasioned him to say with warmth to Mr. Carmichael, 'Now is your time to make a treaty with England.' Fitzherbert availed himself of these conferences to create apprehensions that the Americans would aid his nation in case of war."

Your genuine letter could have made no such impression. The British court then must have forged one, to suit their purpose, and I think it will not be amiss to send a genuine copy to Carmichael, to place our faith on it's just ground. The principal hope of doing anything now, is founded, either on an expected removal of the Count de F. B. from the ministry, in which case persons will be employed who are more friendly to America, or to the bursting out of that fire which both gentlemen think but

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superficially covered. Mr. Carmichael justifies himself by the interception of his letters. He has shown the originals to Colonel H. He concludes his present letter with these words,

"Relying on the good opinion of me, that you have been pleased to express on many occasions, I entreat you to engage the President to permit me to return to my native country."

Col? Humphreys, on the subjects of his justification and return says, (after speaking of the persons likely to come into power),

"Mr. Carmichael being on terms of intimacy with the characters here, is certainly capable of effecting more at this court than any other American. He is heartily desirous of accomplishing the object in view at all events, & fully determined to return to America in 12. or 18. months at farthest. He has expressed that intention repeatedly. To be invested with full powers, perhaps he would be able to do something before his departure from the continent."

In his letter of Jan. 15. he says,

"Mr. Carmichael's ideas are just: his exertions will be powerful & unremitting to obtain the accomplishment of our desires before his departure from this country. The task will now be difficult if not impracticable."

In that of Feb. 6. he says,

"Mr. Carmichael is much mortified that so many of his despatches have miscarried. By the original documents, which I have seen in his hands, I am convinced he has been extremely assiduous and successful in procuring early & authentic intelligence.

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It is difficult for a person at a distance to form an adequate judgment of the embarrassments to which a public man, situated as he was, is subjected, in making written communications, from such an inland place, & under such a jealous government. He appears disgusted with the country & the mode of life he is compelled to lead. He desires ardently to return to his native land; but he wishes to distinguish himself first by rendering some essential service to it if possible."

I propose to write to Mr. Carmichael that your absence prevents my asking the permission he desires, that as it is natural he should wish to do something which may make favorable impressions here before his return & an opportunity is now offered him, I will suspend asking his recall till I hear further from him.

Governor Quesada, by order of his court, is inviting foreigners to go and settle in Florida. This is meant for our people. Debtors take advantage of it, & go off with their property. Our citizens have a right to go where they please. It is the business of the states to take measures to stop them till their debts are paid. This done, I wish a hundred thousand of our inhabitants would accept the invitation. It will be the means of delivering to us peaceably, what may otherwise cost us a war. In the meantime we may complain of this seduction of our inhabitants just enough to make them believe we think it very wise policy for them, & confirm them in it. This is my idea of it.

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TO THE U. S. MINISTER TO PORTUGAL J. MSS.

(DAVID HUMPHREYS)

PHILADELPHIA, Apr. 11. 1791.

DEAR SIR,—I wrote you Mar. 15. with postscripts of the 18th & 19th since that yours of Jan. 3. No. 10. Jan. 15. No. 11. from Madrid, and Feb. 6. No. 12. & Feb. 12. No. 13. from Lisbon are received. They covered a letter from Mr. Carmichael, the only one we have from him of later date than May 1789. You know that my letter to him, of which you were the bearer, took notice of the intermission of his correspondence, and the one inclosed to him in my letter to you of Mar. 15. being written when this intermission was felt still stronger, as having continued so much longer, conveyed stronger marks of dissatisfaction. Tho' his letter now received convinces us he has been active in procuring intelligence, yet it does not appear that he has been equally assiduous in procuring means of correspondence which was the more incumbent on him in proportion as the government was more jealous & watchful. Still however I wish him to receive the letter now inclosed for him herein, as it softens what had been harder said, and shews a disposition rather to look forward than backward. I hope you will receive it in time to forward with the other. It contains important matter, pressing on him, as I wish to do on you, & have done on Mr Short, to engage your respective courts in a *co-operation in our navigation act. Procure for us all the information possible as to the strength, riches, resources, lights and dispositions of Brazil. The jealousy of the court of Lisbon*

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on this subject will of course inspire you with due caution in making and communicating these inquiries.[1]

TO JAMES MONROE J. MSS.

PHILADELPHIA Apr. 17. 1791.

DEAR SIR,—Your favor of Mar. 29. 1791. came to hand last night. I sincerely sympathize with you on the step which your brother has taken without consulting you, and wonder indeed how it could be done, with any attention in the agents, to the laws of the land. I fear he will hardly persevere in the second plan of life adopted for him, as matrimony illy agrees with study, especially in the first stages of both. However you will readily perceive that, *the* thing being done, there is now but one question, that is what is to be done to make the best of it, in respect both to his & your happiness? A step of this kind indicates no vice, nor other foible than of following too hastily the movements of a warm heart. It admits therefore of the continuance of cordial affection, & calls perhaps more indispensably for your care & protection. To conciliate the affection of all parties, and to banish all suspicion of discontent, will conduce most to your own happiness also. I am sorry to hear that your daughter has been unwell, & hope she is recovered ere this, and that Mrs. Monroe enjoys good health. Affairs in France are still going on well. The late pacification between Spain & England has not been a reconciliation. It

[1] Cipher numbers in original.

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is thought the fire is but slightly covered, & may burst out should the Northern war spread as is expected. Great Britain is still endeavoring to plunder us of our carrying business. The parliament have a bill before them to admit wheat brought in *British* bottoms to be warehoused rent free, so that the merchants are already giving a preference to British bottoms for that commodity. Should we lose the transportation of our own wheat, it will put down a great proportion of our shipping, already pushed by British vessels out of some of the best branches of business. In order further to circumscribe our carrying, the Commissioners of the Treasury have lately determined to admit no vessel as American, unless built here. This takes from us the right of prescribing by our own laws the conditions of naturalizing vessels in our own country, and in the event of a war in which we should be neutral, prevents our increasing, by purchase, the quantity of our shipping, so as to avail ourselves of the full benefit of the neutrality of our flag. If we are to add to our own stock of shipping only as much as we can build, a war will be over before we shall be the better of it. We hear of continual murders in the Westward. I hope we shall drub the Indians well this summer & then change our plan from war to bribery. We must do as the Spaniards & English do, keep them in peace by liberal & constant presents. They find it the cheapest plan, & so shall we. The expence of this summers expedition would have served for presents for half a century. In this way hostilities being suspended for some length of time, a real affection may

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succeed on our frontiers to that hatred now existing there. Another powerful motive is that in this way we may leave no pretext for raising or continuing an army. Every rag of an Indian depredation will otherwise serve as a ground to raise troops with those who think a standing army and a public debt necessary for the happiness of the U. S. and we shall never be permitted to get rid of either. Our treasury still thinks that these new encroachments of Gr. Brit. on our carrying trade must be met by passive obedience and non-resistance, lest any misunderstanding with them should *affect our credit, or the prices of our public paper*. New schemes are on foot for bringing more paper to market by encouraging great manufacturing companies to form, and their actions, or paper-shares, to be transferrable as bank-stock. We are ruined, Sir, if we do not over rule the principles that 'the more we owe, the more prosperous we shall be,' 'that a public debt furnishes the means of enterprise,' 'that if ours should be once paid off, we should incur another by any means however extravagant' &c. &c.— Col^{o} Eveleigh died yesterday morn^{g}—Present me affectionately & most affectionately to Mrs. Monroe. I cannot be with you till September. Adieu, my dear Sir.

TO THE PRESIDENT OF THE UNITED STATES J. MSS.

PHILADELPHIA, Apr. 17. 1791.

SIR,—I had the honor of addressing you on the 2^{d}, which I supposed would find you at Richmond, and again on the 10th, which I thought would

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overtake you at Wilmington. The present will probably find you at Charleston.

According to what I mentioned in my letter of the 10th, the Vice-president, Secretaries of the Treasury & War & myself, met on the 11th. Colo Hamilton presented a letter from Mr. Short in which he mentioned that the month of February being one of the periodical months in Amsterdam, when from the receipt of interest and refunding of capitals, there is much money coming in there, & free to be disposed of, he had put off the opening his loan till then, that it might fill the more rapidly, a circumstance which would excite the presumption of our credit; that he had every reason to hope it would be filled before it would be possible for him, after his then communication of the conditions, to receive your approbation of them, & orders to open a second; which however should be awaited, according to his instructions; but he pressed the expediting the order, that the stoppage of the current in our favor might be as short as possible. We saw that if, under present circumstances, your orders should be awaited, it would add a month to the delay, and we were satisfied, were you present, you would approve the conditions, & order a second loan to be opened. We unanimously therefore advised an immediate order, on condition the terms of the 2d loan should not be worse than those of the 1st. Genl. Knox expressed an apprehension that the 6. nations might be induced to join our enemies; there being some suspicious circumstances; and he wished to send Colo. Pickering to confirm them in their neutrality. This

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he observed would occasion an expense of about two thousand dollars, as the Indians were never to be met empty-handed. We thought the mission adviseable. As to myself, I hope we shall give the Indians a thorough drubbing this summer, and I should think it better afterwards to take up the plan of liberal & repeated presents to them. This would be much the cheapest in the end, & would save all the blood which is now spilt: in time too it would produce a spirit of peace & friendship between us. The expense of a single expedition would last very long for presents. I mentioned to the gentlemen, the idea of suggesting thro' Colo. Beckwith our knowledge of the conduct of the British officers in furnishing the Indians with arms & ammunition, and our dissatisfaction. Colo. Hamilton said that Beckwith had been with him on the subject, and had assured him they had given the Indians nothing more than the annual present, & at the annual period. It was thought proper however that he should be made sensible that this had attracted the notice of government. I thought it the more material, lest, having been himself the first to speak of it, he might suppose his excuses satisfactory, & that therefore they might repeat the annual present this year. As Beckwith lodges in the same house with Mr. Madison, I have desired the latter to find some occasion of representing to Beckwith that tho' an annual present of arms & ammunition be an innocent thing in time of peace, it is not so in time of war: that it is contrary to the laws of neutrality for a neutral power to furnish military implements to either party

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at war, & that if their subjects should do it on private account, such furniture might be seized as contraband: to reason with him on the subject, as from himself, but so as to let him see that government thought as himself did.

You knew, I think, before you left us, that the British Parliament had a bill before them for allowing wheat, imported in *British* bottoms, to be warehoused rent free. In order further to circumscribe the carrying business of the U. S., they now refuse to consider as an American bottom, any vessel not built here. By this construction they take from us the right of defining by our own laws what vessels shall be deemed ours & naturalized here; and in the event of a war, in which we should be neutral, they put it out of our power to benefit ourselves of our neutrality, by increasing suddenly by purchase & naturalization our means of carriage. If we are permitted to do this by building only, the war will be over before we can be prepared to take advantage of it. This has been decided by the Lords Commissioners of the treasury, in the case of one Green a merchant of New York; from whom I have received a regular complaint on the subject. I enclose you the copy of a note from Mr. King to Colonel Hamilton, on the subject of the appointment of a British minister to come here. I suspect it, however, to be without foundation.

Colonel Eveleigh died yesterday. Supposing it possible you might desire to appoint his successor as soon as you could decide on one, I enclose you a blank commission; which, when you shall be pleased

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to fill it up and sign, can be returned for the seal and counter-signature. I enclose you a letter from Mr. Coxe to yourself, on the subject of this appointment, and so much of one to me as related to the same, having torn off a leaf of compliment to lighten and lessen my enclosures to you. Should distributive justice give preference to a successor of the same state with the deceased, I take the liberty of suggesting to you Mr. Hayward, of South Carolina, whom I think you told me you did not know, and of whom you are now on the spot of inquiry. I enclose you also a continuation of the Pennsylvania debates on the bill for federal buildings. After the postponement by the Senate, it was intended to bring on the reconsideration of that vote; but the hurry at winding up their session prevented it. They have not chosen a federal Senator.

TO THE PRESIDENT OF THE UNITED STATES J. MSS.

PHILADELPHIA, April 24, 1791.

SIR,—I had the honor of addressing you on the 17th. Since which I have received yours of the 13th.—I inclose you extracts from letters received from Mr. Short. In one of the 7th of Feb., Mr. Short informs me that he has received a letter from M. de Montmorin, announcing to him that the King has named Ternant his minister here. The questions on our tobacco & oil have taken unfavorable turns. The former will pay 50 livres the thousand weight less when carried in French than foreign

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bottoms. Oil is to pay twelve livres a kental, which amounts to a prohibition of the common oils, the only kind carried there. Tobacco will not feel the effect of these measures till time will be given to bring it to rights. They had only 20,000 hhds. in the kingdom in Novemb. last, & they consume 2000 hhds. a month; so that they must immediately come forward & make great purchases, & not having, as yet, vessels of their own to carry it, they must pay the extra duties on ours. I have been puzzled about the delays required by Mr. Barclay's affairs. He gives me reason to be tolerably assured, that he will go in the first vessel which shall sail after the last day of May. There is no vessel at present whose destination would suit. Believing that even with this, we shall get the business done sooner than thro' any other channel, I have thought it best not to change the plan.—The last Leyden gazettes give us what would have been the first object of the British arms had the rupture with Spain taken place. You know that Admiral Cornish had sailed on an unknown destination before the Convention was received in London. Immediately on it's receipt, they sent an express after him to Madeira, in hopes of finding him there. He was gone, & had so short a passage that in 23 days he had arrived in Barbadoes, the general rendezvous. All the troops of the islands were collecting there, and Genl. Matthews was on his way from Antigua to take command of the land operations, when he met with the packet boat which carried the counter-orders. Trinidad was the object of the expedition. Matthews re-

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turned to Antigua, & Cornish is arrived in England. This island, at the mouth of the Oronoko, is admirably situated for a lodgment from which all the country up that river, & all the Northern coast of South America, Spanish, French, Dutch, & Portuguese, may be suddenly assailed.

Colo. Pickering is now here, & will set out in two or three days to meet the Indians, as mentioned in my last.—The intimation to Colo. Beckwith has been given by Mr. Madison. He met it on very different ground from that on which he had placed it with Colo. Hamilton. He pretended ignorance & even disbelief of the fact; when told that it was out of doubt, he said he was positively sure the distribution of arms had been without the knowlege and against the orders of Lo. Dorchester, & of the government. He endeavored to induce a formal communication from me. When he found that could not be effected, he let Mr. Madison perceive that he thought however informal his character, he had not been sufficiently noticed: said he was in N. York before I came into office, and that tho' he had not been regularly turned over to me, yet I knew his character. In fine he promised to write to Lo. Dorchester the general information we had received & our sense of it; and he saw that his former apologies to Colo. Hamilton had not been satisfactory to the government.—Nothing further from Moose island nor the posts on the Northern border of New-York, nor anything of the last week from the Western country.

Arthur Campbell has been here. He is the enemy

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of P. Henry. He says the Yazoo bargain is like to drop with the consent of the purchasers. He explains it thus. They expected to pay for the lands in public paper at par, which they had bought at half a crown the pound. Since the rise in the value of the public paper, they have gained as much on that, as they would have done by investing it in the Yazoo lands; perhaps more, as it puts a large sum of specie at their command which they can turn to better account. They are therefore likely to acquiesce under the determination of the government of Georgia to consider the contract as forfeited by non-payment.—I direct this letter to be forwarded from Charleston to Cambden. The next will be from Petersburg to Taylor's ferry; and after that I shall direct to you at Mount Vernon.

TO THOMAS MANN RANDOLPH J. MSS.

PHILADELPHIA May 1. 1791.

DEAR SIR,—I have to acknowlege the receipt of your favour of Apr. 7. which came to hand on the 20th. I hope my letters on the subject of my tobo. have got to hand in time to prevent any contract there interfering with the sale I made here. I learn that 4 hhds more are coming on. Being entitled to the highest price given before payment, I believe I shall be sure of 5⅓ dollars which will net me 29/3 Virginia money. Your shipment to London & Mr. Madison's to Liverpool will give us a fair trial of the markets. We are still sitting before fires here. The

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fruit in this country is untouched. I thank you for having replaced my dead trees. It is exactly what I would have wished. I shall be glad to hear how the white wheat, mountain-rice, Paccan & Sugar Maples have succeeded. Evidence grows upon us that the U. S. may not only supply themselves sugar for their own consumption but be great exporters. I have received a cargo of olive trees from Marseilles, which I am ordering on to Charleston, so that the U. S. has a certain prospect that sugar & oil will be added to their productions, no mean addition. I shall be glad to have a pair of puppies of the Shepherd's dog selected for the President. A committee of the Philosophical society is charged with collecting materials for the natural history of the Hessian fly. I do not think that of the weavil of Virginia has been yet sufficiently detailed. What do you think of beginning to turn your attention to this insect, in order to give its history to the Phil. society? It would require some summers' observations.—Bartram here tells me that it is one & the same insect which by depositing it's egg in the young plumbs, apricots, nectarines & peaches renders them gummy & good for nothing. He promises to shew me the insect this summer.—I long to be free for pursuits of this kind instead of the detestable ones in which I am now labouring without pleasure to myself, or profit to others. In short I long to be with you at Monticello. Greet all the family tenderly for me.

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TO THE PRESIDENT OF THE UNITED STATES

D. S. MSS.

PHILADELPHIA May 1. 1791.

SIR,—I had the honour of addressing you on the 24th Ult. which I presume you will have received at Cambden. The present is ordered to go from Petersburg to Taylor's ferry. I think it better my letters should be even some days ahead of you, knowing that if they ever get into your rear they will never overtake you. I write to-day indeed merely as the watchman cries, to prove himself awake, & that all is well, for the last week has scarcely furnished anything foreign or domestic worthy your notice. Truxton is arrived from the E. Indies and confirms the check by Tippou Saib on the detachment of Colo Floyd, which consisted of between 3. & 4000 men. The latter lost most of his baggage & artillery, and retreated under the pursuit of the enemy. The loss of men is pretended by their own papers to have been 2, or 300 only. But the loss and character of the officers killed, makes one suspect that the situation has been such as to force the best officers to expose themselves the most, & consequently that more men must have fallen. The main body with General Meedons at their head are pretended to be going on boldly, yet Ld Cornwallis is going to take the field in person. This shews that affairs are in such a situation as to give anxiety. Upon the whole the account received thro' Paris proves true notwithstanding the minister had declared to the house of Commons, in his place, that the public accounts were without foundation, & that nothing amiss had happened.

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Our loan in Amsterdam for 2½ million of florins filled in two hours & a half after it was opened.

The Vice-president leaves us to-morrow. We are told that Mr. Morris gets £70.000 sterl. for the lands he has sold.

A Mr. Noble has been here, from the country where they are busied with the sugar maple tree. He thinks Mr. Cooper will bring 3000 £'s worth to market this season, and gives the most flattering calculations of what may be done in that way. He informs me of another very satisfactory fact, that less profit is made by converting the juice into spirit than into sugar. He gave me specimens of the spirit, which is exactly whiskey.

I have arrived at Baltimore from Marseilles 40. olive trees of the best kind from Marseilles, & a box of the seed. The latter to raise stocks, & the former cuttings to engraft on the stocks. I am ordering them on instantly to Charleston, where if they arrive in the course of this month they will be in time. Another cargo is on it's way from Bordeaux, so that I hope to secure the commencement of this culture, and from the best species. Sugar & oil will be no mean addition to the articles of our culture. I have the honour to be with the greatest respect and esteem, Sir, your most obedt. & most humble servt.

TO MARY JEFFERSON [1]

PHILADELPHIA, May 8th, 1791.

MY DEAR MARIA,—Your letter of April 18th came to hand on the 30th; that of May 1st I received

[1] From S. N. Randolph's *Domestic Life of Jefferson*, p. 199.

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last night. By the stage which carries this letter I send you twelve yards of striped nankeen of the pattern inclosed. It is addressed to the care of Mr. Brown, merchant in Richmond, and will arrive there with this letter. There are no stuffs here of the kind you sent. April 30th the lilac blossomed. May 4th the gelder-rose, dogwood, redbud, azalea were in blossom. We have still pretty constant fires here. I shall answer Mr. Randolph's letter a week hence. It will be the last I shall write to Monticello for some weeks, because about this day se'nnight I set out to join Mr. Madison at New York, from whence we shall go up to Albany and Lake George, then cross over to Bennington, and so through Vermont to the Connecticut River, down Connecticut River, by Hartford, to New Haven, then to New York and Philadelphia. Take a map and trace this route. I expect to be back in Philadelphia about the middle of June. I am glad you are to learn to ride, but hope that your horse is very gentle, and that you will never be venturesome. A lady should never ride a horse which she might not safely ride without a bridle. I long to be with you all. Kiss the little one every morning for me, and learn her to run about before I come. Adieu, my dear. Yours affectionately.

TO THE PRESIDENT OF THE UNITED STATES

D. S. MSS.

PHILADELPHIA, May 8, 1791.

SIR,—The last week does not furnish one single public event worthy communicating to you: so that

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I have only to say "all is well." Paine's answer to Burke's pamphlet begins to produce some squibs in our public papers. In Fenno's paper they are Burkites, in the others, Painites. One of Fenno's was evidently from the author of the discourses on Davila. I am afraid the indiscretion of a printer has committed me with my friend Mr. Adams, for whom, as one of the most honest & disinterested men alive, I have a cordial esteem, increased by long habits of concurrence in opinion in the days of his republicanism; and even since his apostacy to hereditary monarchy & nobility, tho' we differ, we differ as friends should do. Beckley had the only copy of Paine's pamphlet, & lent it to me, desiring when I should have read it, that I would send it to a Mr. J. B. Smith, who had asked it for his brother to reprint it. Being an utter stranger to J. B. Smith, both by sight & character I wrote a note to explain to him why I (a stranger to him) sent him a pamphlet, to wit, that Mr. Beckley had desired it; & to take off a little of the dryness of the note, I added that I was glad to find it was to be reprinted, that something would at length be publicly said against the political heresies which had lately sprung up among us, & that I did not doubt our citizens would rally again round the standard of common sense. That I had in my view the Discourses on Davila, which have filled Fenno's papers, for a twelvemonth, without contradiction, is certain, but nothing was ever further from my thoughts than to become myself the contradictor before the public. To my great astonishment however, when the

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pamphlet came out, the printer had prefixed my note to it, without having given me the most distant hint of it. Mr. Adams will unquestionably take to himself the charge of political heresy, as conscious of his own views of drawing the present government to the form of the English constitution, and, I fear will consider me as meaning to injure him in the public eye. I learn that some Anglo men have censured it in another point of view, as a sanction of Paine's principles tends to give offence to the British government. Their real fear however is that this popular & republican pamphlet, taking wonderfully, is likely at a single stroke to wipe out all the unconstitutional doctrines which their bell-weather Davila has been preaching for a twelvemonth. I certainly never made a secret of my being anti-monarchical, & anti-aristocratical; but I am sincerely mortified to be thus brought forward on the public stage, where to remain, to advance or to retire, will be equally against my love of silence & quiet, & my abhorrence of dispute.—I do not know whether you recollect that the records of Virginia were destroyed by the British in the year 1781. Particularly the transactions of the revolution before that time. I am collecting here all the letters I wrote to Congress while I was in the administration there, and this being done I shall then extend my views to the transactions of my predecessors, in order to replace the whole in the public offices in Virginia. I think that during my administration, say between June 1. 1779. & June 1. 1781. I had the honor of writing frequent letters to you on public affairs, which perhaps may be among

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your papers at Mount Vernon. Would it be consistent with any general resolution you have formed as to your papers, to let my letters of the above period come here to be copied, in order to make them a part of the records I am endeavoring to restore for the state? or would their selection be too troublesome? if not, I would beg the loan of them, under an assurance that they shall be taken the utmost care of, & safely returned to their present deposit.

The quiet & regular movements of our political affairs leaves nothing to add but constant prayers for your health & welfare and assurances of the sincere respect & attachment of Sir Your most obedient, & most humble servt.

TO JAMES MADISON J. MSS.

PHILADELPHIA May 9. 1791.

DEAR SIR,—Your favor of the 1st came to hand on the 3d. Mr. Freneau has not followed it: I suppose therefore he has changed his mind back again, for which I am really sorry. I have now before me a huge bundle of letters, the only business between me & my departure. I think I can be through them by the end of the week, in which case I will be with you by Tuesday or Wednesday, if nothing new comes in to delay me. Rittenhouse will probably not go. He says he cannot find a good horse. I shall propose to you when we back about from the extremity of our journey, instead of coming back the same way, to cross over through Vermont to Connecticut river & down that to New-haven, then through Long-island

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to N. Y. & so to Philade. Be this however as you will. Our news from Virginia is principally of deaths, to wit, Colo. B. Harrison of Barclay, Turner Southall, Dixon the printer, Colo. Overton of Hanover, Walker Gilmer son of the Doctor. A Peter Randolph of Chatsworth has had a fit of madness, which he has recovered from. Wheat has suffered by drought: yet it is tolerably good. The fruit not entirely killed.—At this place little new. F. Hopkinson lies at extremities with regular epileptic fits, from which they think he cannot recover. Colo. Hamilton set out to-day for Bethlehem. Have you seen the Philadelphia edn. of Paine's pamphlet? You know you left Beckley's copy in my hands. He called on me for it, before I had quite finished it & desired me when done to send it to J. B. Smith whose brother was to reprint it. When I was proceeding to send it, I found it necessary to write a note to Mr. Smith to explain why I, a perfect stranger to him, sent him the pamphlet. I mentioned it to be by the desire of Mr. Beckley, & to take off a little of the dryness of the note, added, *currente calamo*, that I was pleased to find it was to be reprinted here, that something was at length to be publicly said against the political heresies which had of late sprung up among us, not doubting but that our citizens would rally again round the standard of Common Sense. I thought no more of this & heard no more till the pamphlet appeared, to my astonishment with my note at the head of it. I never saw J. B. Smith or the printer either before or since. I had in view certainly the doctrines of Davila. I tell the writer

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freely that he is a heretic, but certainly never meant to step into a public newspaper with that in my mouth. I have just reason therefore to think he will be displeased. Colo. Hamilton & Colo. Beckwith are open-mouthed against me, taking it in another view, as likely to give offence to the court of London. H. adds further that it makes my opposition to the government. Thus endeavoring to turn [upon] the government itself those censures I meant for the enemies of the government, to wit those who want to change it into a monarchy. I have reason to think he has been unreserved in uttering these sentiments. I send you some letters received for you. Adieu.

TO BENJAMIN VAUGHAN J. MSS.

PHILADELPHIA May 11. 1791.

DEAR SIR,—It is rare that my public occupations will permit me to take up the pen for my private correspondencies however desirable to me. This must be my apology for being so late in acknowleging the receipt of your favors of Sep. 21. Oct. 21. Dec. 2. & 16. & Jan. 6. The parcels of mountain rice from Timor came to hand too late in the last season to produce seed. I have sowed this spring some of the same, but it has not yet come up. I was fortunate in receiving from the coast of Africa last fall a cask of mountain rice of the last year's growth. This I have dispersed into many hands, having sent the mass of it to S. Carolina. The information which accompanied this cask was that they have there

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(on the coast of Africa) 3. kinds of mountain rice, which sowed at the same time, comes to harvest a month distant from each other. They did not say of which kind that is which was sent to me. The kind which ripens quickest will surely find sun enough to ripen it in our middle states.

I thank you, my dear Sir, for the Sacontalá, and for Smeeton's book: but the latter is of a value which obliged me to request you to put more reasonable bounds to your liberalities; neither the state of the sciences nor of the arts here putting it in my power to fulfil that reciprocity which my wishes would lead me to. The Revolution of France does not astonish me so much, as the Revolution of Mr. Burke. I wish I could believe the latter proceeded from as pure motives as the former. But what demonstration could scarcely have established before, less than the hints of Dr. Priestly & Mr. Paine establish firmly now. How mortifying that this evidence of the rottenness of his mind must oblige us now to ascribe to wicked motives those actions of his life which wore the mark of virtue & patriotism. To judge from what we see published, we must believe that the spirit of toryism has gained nearly the whole of the nation: that the whig principles are utterly extinguished except in the breasts of certain descriptions of dissenters. This sudden change in the principles of a nation would be a curious morsel in the history of man.—We have some names of note here who have apostatised from the true faith: but they are few indeed, and the body of our citizens pure & insusceptible of taint in their republicanism. Mr. Paine's

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answer to Burke will be a refreshing shower to their minds. It would bring England itself to reason & revolution if it was permitted to be read there. However the same things will be said in milder forms, will make their way among the people, & you must reform at last.

We have great reason to be satisfied with the train of our affairs. Our government is going on with a firm & steady pace. Our taxes, increasing with our population, are always ahead of our calculations, favorable seasons for several years past have given great crops of produce, and the increase of industry, economy, & domestic manufacture are very sensible. Our credit both at home & abroad equal to our wishes. So that on the whole we are in as prosperous a way as a nation can well be. This shews the advantage of the changeableness of a constitution. Had our former one been unalterable (pardon the absurdity of the hypothesis) we must have gone to ruin with our eyes open.—We are in hopes the operations of this summer will bring our savage neighbors to accept our peace, friendship & good offices, which is all we desire of them. If you see Ld. Wycombe sometimes present my esteem to him; so also & ever to Dr. Price. I am Dear Sir with sincere attachment your most obdt. & most humble servt.

TO THE PRESIDENT OF THE UNITED STATES

D. S. MSS.

PHILADELPHIA, May 15. 1791.

SIR,—We are still without any occurrence foreign or domestic worth mentioning to you. It is

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sometime since any news has been received from Europe of the political kind, and I have been longer than common without any letters from Mr. Short.

Colº Hamilton has taken a trip to Bethlehem. I think to avail myself also of the present interval of quiet to get rid of a head ach which is very trouble some, by giving more exercise to the body & less to the mind. I shall set out tomorrow for New York, where Mr. Madison is waiting for me, to go up the North river, & return down Connecticut river, and through Long-island. My progress up the North river will be limited by the time I allot for my whole journey, which is a month. So that I shall turn about when ever that renders it necessary. I leave orders, in case a letter should come from you covering the commission for Colº Eveleigh's successor, that it should be opened, the great seal put to it, and then given out. My countersign may be added on my return. I presume I shall be back here about the time of your arrival at Mount Vernon, where you will receive this letter. The death of Judge Hopkinson has made a vacancy for you to fill. Should I pick up any thing in my journey, I will write it to you from time to time. I have the honour to be with sincere respect & attachment, Sir, your most obedient and most humble servt.

TO THOMAS MANN RANDOLPH J. MSS.

PHILADELPHIA, May 15, 1791.

DEAR SIR,— * * * I hope my tobº will all come on now as soon as possible, except that which

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was fired. One of those hhds Stratton brought was of this kind, and cannot be sold here at all. I will thank you to desire Mr Lewis to take effectual measures to retain there the fired tob° as, should it come here, I shall be obliged to send it back again to Richmond, which will cost a dollar a hundred, the coming & going. I am afraid my letter of Feb. 9. to Mr. Lewis never got to hand. The objects of it were to inform him of the sale of my tob° here, to press a final settlement of my bargain with Ronald, and to advertise the Elk-hill lands for sale. Not having seen the advertisement in Davies's paper, has excited my fear that the letter miscarried. Perhaps it may have been put into some other paper. For fear it should have miscarried I will add the same form for the advertisement at the end of this letter. That of Feb. 9. was important for the other two objects also. It certainly ought to have got to hand before the date of your letter of Apr. 4. wherein you say he was still waiting my directions, relative to the tob°. I set out tomorrow on a journey to lakes George & Champlain, down Connecticut river & through Long island back to N. York & this place, so that you will not hear from me for a month to come. I inclose you Bache's as well as Fenno's papers. You will have perceived that the latter is a paper of pure Toryism, disseminating the doctrines of monarchy, aristocracy, & the exclusion of the influence of the people. We have been trying to get another *weekly* or *half weekly* paper set up excluding advertisements, so that it might go through the states, & furnish a whig vehicle of intelligence. We hoped at one time

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to have persuaded Freneau to set up here, but failed. In the mean time Bache's paper, the principles of which were always republican, improves in it's matter. If we can persuade him to throw all his advertisements on one leaf, by tearing that off, the leaf containing intelligence may be sent without over-charging the post, & be generally taken instead of Fenno's. I will continue to send it to you, as it may not only amuse yourself, but wish you to oblige your neighbours with the perusal. My love to Martha & Maria, & be assured yourself of the sincere attachment of Dear Sir Your's Affectionately.

TO MARTHA JEFFERSON RANDOLPH [1]

LAKE CHAMPLAIN, May 31st, 1791.

MY DEAR MARTHA,—I wrote to Maria while sailing on Lake George, and the same kind of leisure is afforded me today to write to you. Lake George is, without comparison, the most beautiful water I ever saw; formed by a contour of mountains into a basin thirty five miles long, and from two or four miles broad, finely interspersed with islands, its water limpid as crystal, and the mountain sides covered with rich groves of thuja, silver fir, white pine, aspen, and paper birch down to the water-edge; here and there precipices of rock to checker the scene and save it from monotony. An abundance of speckled trout, salmon trout, bass, and other fish, with which it is stored, have added, to our other amusements,

[1] From S. N. Randolph's *Domestic Life of Jefferson.*

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the sport of taking them. Lake Champlain, though much larger, is a far less pleasant water. It is muddy, turbulent, and yields little game. After penetrating into it about twenty-five miles, we have been obliged, by a head wind and a high sea, to return, having spent a day and a half in sailing on it. We shall take our route again through Lake George, pass through Vermont, down Connecticut River through Long Island to New York and Philadelphia. Our journey has hitherto been prosperous and pleasant, except as to the weather, which has been as sultry and hot through the whole as could be found in Carolina or Georgia. I suspect, indeed, that the heats of the Northern climates may be more powerful than those of Southern ones in proportion as they are shorter. Perhaps vegetation required this. There is as much fever and ague, too, and other bilious complaints on Lake Champlain as on the swamps of Carolina. Strawberries here are in the blossom, or just formed. With you, I suppose the season is over. On the whole, I find nothing anywhere else, in point of climate, which Virginia need envy to any part of the world. Here they are locked up in snow and ice for six months. Spring and autumn, which make a paradise of our country, are rigorous winter with them; and a tropical summer breaks on them all at once. When we consider how much climate contributes to the happiness of our condition, by the fine sensations it excites, and the productions it is the parent of, we have reason to value highly the accident of birth in such a one as that of Virginia.

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From this distance I can have little domestic to write to you about. I must always repeat how much I love you. Kiss the little Anne for me. I hope she grows lustily, enjoys good health, and will make us all, and long, happy as the centre of our common love. Adieu, my dear.

TO THE PRESIDENT OF THE UNITED STATES

D. S. MSS.

BENNINGTON June 5. 1791.

SIR,—In my last letter from Philadelphia, I mentioned that Mr. Madison & myself were about to take a trip up the North river as far as circumstances should permit. The levelness of the roads led us quite on to Lake George, where taking boat we went through that, and about 25 miles into Lake Champlain. Returning then to Saratoga, we concluded to cross over thro' Vermont to Connecticut river and go down that instead of the North river which we had already seen, and we are so far on that rout. In the course of our journey we have had opportunities of visiting Stillwater, Saratoga, Forts Wm. Henry & George, Ticonderoga, Crown point, & the scene of Genl. Starke's victory.

I have availed myself of such opportunities as occurred to enquire into the grounds of the report that something disagreeable had taken place in the vicinities of the British posts. It seems to have been the following incident. They had held a small post at a block house on the North Hero, an island on the Vermont side of Lake Champlain, &

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something further South than their principal post at the Point au fer. The *Maria* hitherto stationed at the latter, for Custom-house purposes, was sent to the Block-house, & there exercised her usual visits on boats passing to & from Canada. This being an exercise of power further within our jurisdiction became the subject of notice & clamour with our citizens in that quarter. The vessel has been since recalled to the Point au fer, & being unfit for service, a new one is to be built to perform her functions. This she has usually done at the Point au fer with a good deal of vigour, bringing all vessels to at that place, & some times under such circumstances of wind & weather as to have occasioned the loss of two vessels & cargoes. These circumstances produce strong sensations in that quarter, & not friendly to the character of our government. The establishment of a custom-house at Albany, nearly opposite to Point au fer, has given the British considerable alarm. A groundless story of 200 Americans seen in arms near Point au fer, has been the cause, or the pretext of their reinforcing that place a few days ago with a company of men from St. John's. It is said here they have called in their guard from the Block-house, but the information is not direct enough to command entire belief.

On enquiring into the dispositions in Canada on the subject of the projected form of government there, we learn that they are divided into two parties; the English who desire something like an English constitution but so modelled as to oblige the French to chuse a certain proportion of English representatives,

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& the French who wish a continuance of the French laws, moderated by some engraftments from the English code. The judge of their Common pleas heads the former party, & Smith the chief justice secretly guides the latter.

We encounter the green Mountains to-morrow, with cavalry in part disabled, so as to render our progress a little uncertain. I presume however I shall be in Philadelphia in a fortnight.

TO THOMAS MANN RANDOLPH J. MSS.

BENNINGTON, in Vermont, June 5, 1791.

DEAR SIR,—Mr. Madison & myself are so far on the tour we had projected. We have visited in the course of it the principal scenes of Genl. Burgoyne's misfortunes to wit the grounds at Stillwater where the action of that name was fought, & particularly the breastworks which cost so much blood to both parties, the encampments at Saratoga & ground where the British piled their arms, the field of the battle of Bennington about 9 miles from this place. We have also visited Forts Wm. Henry & George, Ticonderoga, Crown point, &c. which have been scenes of blood from a very early part of our history. We were more pleased however with the botanical objects which continually presented themselves. Those either unknown or rare in Virgna were the Sugar maple in vast abundance, the Silver fir, White pine, Pitch pine, Spruce pine, a shrub with decumbent stems which they call Juniper, an azalea very

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different from the *nudiflora*, with very large clusters of flowers, more thickly set on the branches, of a deeper red, & high pink-fragrance. It is the richest shrub I have seen. The honeysuckle of the gardens growing wild on the banks' of L. George, the paper-birch, an Aspen with a velvet leaf, a shrub-willow with downy catkins, a wild gooseberry, the wild cherry with single fruit (not the bunch cherry) strawberries in abundance. From the Highlands to the lakes it is a limestone country. It is in vast quantities on the Eastern sides of the lakes, but none on the Western sides. The Sandy hill falls & Wing's falls, two very remarkable cataracts of the Hudson of about 35 f. or 40 f. each between F. Edward & F. George are of limestone, in horizontal strata. Those of the Cohoes, on the W. side of the Hudson, & of 70 f. height, we thought not of limestone. We have met with a small red squirrel of the color of our fox-squirrel, with a black stripe on each side, weighing about 6 oz. generally, and in such abundance on L. Champlain particularly as that twenty odd were killed at the house we lodged in opposite Crown point the morning we arrived there, without going 10 yards from the door. We killed 3 crossing the lakes, one of them just as he was getting ashore where it was 3 miles wide, & where with the high wind then blowing he must have made it 5 or 6 miles.

I think I asked the favr. of you to send for Anthony in the season for inoculn. as well as to do what is necessary in the orchard, as to pursue the object of inoculating all the Spontaneous cherry trees in the fields with good fruit.

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We have now got over about 400 miles of our tour and have still about 450 more to go over. Arriving here on the Saturday evening, and the laws of the state not permitting us to travel on the Sunday, has given me time to write to you from hence. I expect to be at Philadelphia by the 20th or 21st. I am, with great & sincere esteem Dear Sir yours affectionately.

TO THE PRESIDENT OF THE UNITED STATES

D. S. MSS.

PHILADELPHIA June 20. 1791.

SIR,— * * * The papers from the free people of colour in Grenada, which you did me the honour to inclose, I apprehend it will be best to take no notice of. They are parties in a domestic quarrel, which I think we should leave to be settled among themselves. Nor should I think it desireable were it justifiable, to draw a body of sixty thousand free blacks & mulattoes into our country. The instructions from the government of the United Netherlands, by which Mr. Shaw has suffered, merit serious notice. The channel thro which application shall be made is the only difficulty; Dumas being personally disagreeable to that government. However, either thro' him or some other it should certainly be conveyed.

Mr. Remsen had unluckily sent off to New York all my letters on the very day of my arrival here, which puts it out of my power to give you the state of things brought by the last packet. I expect they

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will be returned tomorrow, & that my next may communicate to you whatever they contain interesting.

I received yesterday a letter from Colo. Ternant informing me of his appointment & that he should sail about the latter end of May. The Court of Madrid has sent over a Don Joseph Jaudenes as a joint Commissioner with de Viar, till a charge shall be named. He presented me the letter of credence from the Count de Florida Blanca when I was at New York. He is a young man who was under Secretary to Mr. Gardoqui when here.

Our tour was performed in somewhat less time than I had calculated. I have great hopes it has rid me of my head ach having scarcely had any thing of it during my journey. Mr. Madison's health is very visibly mended. I left him at New York, meditating a journey as far Eastward as Portsmouth.

TO JAMES MADISON MAD. MSS.

PHILADELPHIA June 21. 1791.

DEAR SIR,—I arrived here on Sunday evening. Yesterday I sent your note to Leiper who immediately called and paid the 200 Dollars, which I have exchanged for a post note & now inclose. I mentioned to the Atty Gen. that I had a note on him, & afterwards sent it to him, saying nothing as to time. I inclose you also a post note for 35 Dollars to make up my deficit of expenses (25 94. D.) to pay Mr. Elsworth & the smith & also to get me from Rivington, Hamilton More's practical navigator, if his be

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the 6th edn. as I believe it is. This is the best edn. revised & printed under the author's eye. The later edn. are so incorrect as to be worth nothing.

The President will leave Mt. Vernon on the 27th. He will be stayed a little at Georgetown,—Colo. H. Lee is here. He gives a very different account from Carrington, of the disposition of the upper country of Virginia towards the Excise law—he thinks resistance possible. I am sorry we did not bring with us some leaves of the different plants which struck our attention, as it is the leaf which principally decides *specific* differences. You may still have it in your power to repair the omission in some degree. The Balsam tree at Govr. Robinson's is the Balsam poplar, *Populus Balsamifera* of Linnæus. The *Arolea* I can only suspect to be the *viscosa*, because I find but two kinds the *nudiflora viscosa* acknoleged to grow with us. I am sure it is not the *nudiflora*. The white pine is the *Pinus Strobus*. I will thank you if in your journey northward you will continue the enquiries relative to the Hessian fly, & note them. The post is almost on it's departure so Adieu.

TO THE U. S. MINISTER TO PORTUGAL

(DAVID HUMPHREYS) J. MSS.

PHILADELPHIA, June 23, 1791.

DEAR SIR,— * * * As yet no native candidate, such altogether as we would wish, has offered for the Consulate of Lisbon, and as it is a distinguished

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place in our commerce, we are somewhat more difficult in that than other appointments. Very considerable discouragements are recently established by France Spain & England with respect to our commerce: the first as to whale oil, tobacco & ships, the second as to corn, & the third as to corn & ships. Should these regulations not be permanent, still they add to the proofs that too little reliance is to be had on a steady & certain course of commerce with the countries of Europe to permit us to depend more on that than we cannot avoid. Our best interest would be to employ our principal labour in agriculture, because to the profits of labour which is dear this adds the profits of our lands which are cheap. But the risk of hanging our prosperity on the fluctuating counsels & caprices of others renders it wise in us to turn seriously to manufactures, and if Europe will not let us carry our provisions to their manufactures we must endeavor to bring their manufactures to our provisions. A very uncommon drought has prevailed thro most of the states, so that our crops of wheat will be considerably shorter than common. Our public paper continues high, and the proofs that our credit is now the first in Europe are unequivocal. The Indians North of the Ohio have hitherto continued their cattle depredations, but we are in daily expectation of hearing the success of a first excursion to their towns by a party of 7. or 800 mounted infantry under Genl. Scott. Two or three similar expeditions will follow successively under other officers, while a principal one is prepairing to take place at a later season.

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I thank you for your communication from Mr. Carmichael. His letter of Jan. 24 is still the only one we have from him. Until some surer means of hearing from Madrid can be devised, I must beg of you to give us from time to time all the intelligence you can from that capital. The conveyance by the British packets is tolerably sure, when direct conveyances fail.

You will receive herewith a continuation of the newspapers, for yourself, as also a letter & newspapers for Mr. Carmichael which I must beg the favour of you to convey as safely as you can. The President is expected here the beginning of the ensuing month, being arrived at Mt. Vernon on his return from his Southern tour.

TO JAMES MADISON MAD. MSS.

PHILADELPHIA June 28. 1791.

DEAR SIR,—Yours of the 23$^{d.}$ has been duly received. The parcel from the taylor will probably come safely by the stage. With respect to the edition of Hamilton More's book I took pains to satisfy myself of the best edition when I was in a better situation than I now am, to do it with success. The result was that the 6th edn. was the last published under the examination of the author, & that the subsequent editions, in order to cheapen them, had been so carelessly supervised as to be full of typographical errors in the tables. I therefore prefer waiting till I can get the 6$^{th.}$ I learned further that

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after the 6th edn. the author abandoned all attention to the work himself. I inclose you the pamphlet on the banks, and must trouble you to procure a pamphlet for me which is only in a private hand in N. York. This is a description of the Genisee country, but more particularly of Mr. Morris's purchase of Goreham & Phelps, in 4to, with a map.[1] It was printed in London under the agency of W. T. Franklin to captivate purchasers. There is no name to it. Colo. Smith brought in 6 copies. If one of them can be drawn from him I should be very glad of it. Will you also be so good as to ask of him whether he can give me any information of the progress of the map of S. America, which he, at my request, put into the hands of an engraver. The French proceedings against our tobo. & ships are very eccentric & unwise. With respect to the former, however, which you consider as a *commencement* of hostilities against the Brit. Navign. Act, it is only a continuation of the decision of the council of Berni, since which the importn. of tobo. into France in any but American or French bottoms has been prohibited. The Spanish as well as English proceedings against our commerce are also serious. Nobody doubts here who is the author of *Publicola*, any more than of *Davila*. He is very indecently attacked in Brown's & Bache's papers. From my European letters I am inclined to think peace will take place between the

[1] *An Account of the . . . Lands . . . in North America and particularly the Lands . . . known by the name of the Genisee Tract.* [n. p.]. *1791*, written according to *Ludewig* by Dr. Myles Cooper, but more probably written by W. T. Franklin. The title is in *Sabin*, 26926.

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Porte & Russia. The article which separates them is so minute that it will probably be got over, & the war is so unpopular in England that the ministers will probably make that an excuse to the K. of Prussia for not going all lengths with him. His only object is Thorn & Dantzic, & he has secretly intimated at Petersbg, that if he could be accommodated with this he would not be tenacious against their keeping Ozakoff. This has leaked out, & is working duly in Poland. I think the President will contrive to be on the road out of the reach of ceremony till after the 4th of July. Adieu, my dear sir.

TO RICHARD PETERS [1]

June 30, 1791.

I should sooner have answered your kind note, my dear Sir, but that I had hoped to meet you the day before yesterday, and to tell you vivâ voce that, even without that, I meant to be troublesome to you in my afternoon excursions: that being the part of the day which business and long habit have allotted to exercise with me. I shall certainly feel often enough the inducements to Belmont, among the chief of which will be your society and the desire of becoming acquainted with mrs. Peters. Call on me in your turn, whenever you come to town: and if it should be about the hour of three, I shall rejoice the more. You will find a bad dinner, a good glass of wine, and a host thankful for your favor, and desirous of

[1] From the original in the Historical Society of Pennsylvania.

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encouraging repetitions of it without number, form or ceremony. When Madison returns you will often find him here without notice & always with it: and if you complain again of not seeing him, it will be that the place of rendesvous does not enjoy your favour. He is at present in New York, undecided as to his next movement. Adieu.

TO JAMES MADISON J. MSS.

PHILADELPHIA July 6. 1791.

DEAR SIR,—I have duly received your favours of June 27. & July 1. The last came only this morning. I now return Col° Smith's map with my acknolegements for the pamphlet & sight of the map.—I inclose you a 60. Dollar bill, & beg the favor of you to remit 30. Dollars with the inclosed letter to Prince, also, as I see Maple sugar, *grained*, advertised for sale at New York in boxes of 400 lb. each, if they can be induced to sell 100 lb. only & to pack & send it to Richmond, I will thank you to get it done for me. The box to be directed to me 'to the care of James Brown, Merch^t Richm^d to be forwarded to Monticello.' You see I presume on your having got over your indisposition; if not, I beg you to let all this matter rest till you are. Col° Harry Lee thinks of going on tomorrow, to accompany you to Portsmouth, but he was not quite decided when I saw him last. The President arrived about 10. minutes ago, but I have not yet seen him.—I received safely the packet by cap^t Sims. The Guinea corn is new to

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me, & shall be taken care of. My African upland rice is flourishing. I inclose you a paper estimating the shares of the bank as far as was known three days before it opened. When it opened 24,600 subscriptions were offered, being 4,600 more than could be received, & many persons left in the lurch, among these Rob[t] Morris & Fitzsimmons. They accuse the Directors of a misdeal, & the former proposes to sue them, the latter to haul them up before Congress. Every 25 dollars actually deposited, sold yesterday from 40. to 50. dollars with the future rights & burthens annexed to the deposit.[1] We have no authentic news from Europe since the last packet. Adieu my dear Sir, take care of yourself & let me hear soon that you are quite re-established.

P. S. If you leave N. York, will you leave directions with Mr. Elsworth to forward to me the two parcels of Maple buds, & that of the Birch bark respectively as they arrive. The last I think had better come by water.

[1] Inclosed with this, is the following memorandum:

"The capital stock of the bank, ten millions of dollars, divided into 25,000 shares.

	Shares.
to be subscribed by the President.....	5,000
already subscribed—Boston.....	4,000
" " New York.....	6,400
will be subscribed by Philada.....	5,000
already subscribed, Baltimore.....	2,400
" " Charleston.....	700
	23,500
remains to be subscribed	1,500
	25,000"

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TO JAMES MADISON MAD. MSS.

PHILADELPHIA July 10. 1791.

MY DEAR SIR,—Your indisposition at the date of your last, and hearing nothing from you since, make me fear it has continued. The object of the present is merely to know how you do, & from another hand if you are not well enough. We have little now but what you will see in the public papers—you see there the swarm of *anti-publicolas*. The disavowal by a Printer only does not appear to satisfy.[1] We have no news yet of the event of Scott's expedition. The Marquis Fayette has certainly resumed his command & on a ground which must strengthen him & also the public cause. The subscriptions to the bank from Virginia were almost none. Pickett, McClurg, & Dr. Lee are the only names I have heard mentioned. This gives so much uneasiness to Colº H. that he thinks to propose to the President to sell some of the public shares to subscribers from Virge & N. Caroline, if any more should offer. This partiality would offend the other states without pleasing those two: for I presume they would rather the capitals of their citizens should be employed in commerce than be locked up in a strong box here: nor can sober thinkers prefer a paper medium at 13 per cent interest to gold & silver for nothing. Adieu my dear friend Yours affectionately,

P. S. Osgood is resigning the Postmaster's place. I shall press Paine for it.

[1] Publicola was generally supposed to be John Adams but the printer of the *Centinel* denied this. The letters under that name were written by John Quincy Adams.

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TO JAMES MONROE MON. MSS.

PHILADELPHIA, July 10, 1791.

DEAR SIR,—Your favor of June 17, has been duly received. I am endeavoring to get for you the lodgings Langdon had. But the landlord is doubtful whether he will let them at all. If he will not, I will endeavor to do the best I can. I can accommodate you myself with a stable & coach house without any expense, as I happen to have two on hand; and indeed, in my new one I have had stalls enough prepared for 6 horses, which are 2 more than I keep. Of my success in procuring rooms I shall bring you news myself, tho' as yet the time of my visit to Albemarle is unfixed. Mr. Madison will both go & come with me. He is at present at New York. His journey with me to the lakes placed him in better health than I have seen him; but the late heats have brought on some bilious dispositions.

The papers which I send Mr. Randolph weekly, & which I presume you see, will have shown you what a dust Paine's pamphlet has kicked up here. My last to Mr. Randolph will have given an explanation as to myself which I had not time to give when I sent you the pamphlet. A writer under the name of Publicola, in attacking all Paine's principles, is very desirous of involving me in the same censure with the author. I certainly merit the same, for I profess the same principles; but it is equally certain I never meant to have entered as a volunteer into the cause. My occupations do not permit it. Some persons here are insinuating that I am Brutus, that I am Agricola, that I am Philodemus, &c., &c. I

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am none of them, being decided not to write a word on the subject, unless any printed imputation should call for a printed disavowal, to which I should put my name. A Boston paper has declared that Mr. Adams "has no more concern in the publication of the writings of Publicola than the author of the Rights of man himself." If the equivoque here were not intended, the disavowal is not entirely credited, because not from Mr. Adams himself & because the stile & sentiments raise so strong a presumption. Besides to produce any effect he must disavow Davila & the Defence of the American constitutions. A host of writers have risen in favor of Paine & prove that in this quarter at least the spirit of republicanism is sound. The contrary spirit of the high officers of the government is more understood than I expected. Colo Hamilton, avowing that he never made a secret of his principles yet taxes the imprudence of Mr. Adams in having stirred the question and agrees that "his business is done." Jay, covering the same principles under the vail of silence, is rising steadily on the ruins of his friends. The bank filled & overflowed in the moment it was opened. Instead of 20 thousand shares, 24 thousand were offered, & a great many unpresented who had not suspected that so much haste was necessary. Thus it is that we shall be paying 13 per cent. per ann. for 8 millions of paper money instead of having that circulation of gold & silver for nothing. Experience has proved to us that a dollar of silver disappears for every dollar of paper emitted: and for the paper emitted from the bank 7 per cent profits will be

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received by the subscribers for it as bank paper (according to the last division of profits by the Philadelphia bank) and 6 per cent on the public paper of which it is the representative. Nor is there any reason to believe, that either the 6 millions of public paper or the 2 millions of specie deposited will not be suffered to be withdrawn, and the paper thrown into circulation. The cash deposited by strangers for safe keeping will probably suffice for cash demands. Very few subscribers have offered from Virginia or N. Carolina, which gives uneasiness to H. It is impossible to say where the appetite for gambling will stop. The land-office, the federal town, certain schemes of manufacture, are all likely to be converted into aliment for that rage—but this subject is too copious for a letter and must be reserved for conversation.—The respite from occupation which my journey procured has entirely removed my headaches. Kiss and bless Mrs. Monroe & Eliza for Dear Sir yours affectionately.

TO JOHN ADAMS J. MSS.

PHILADELPHIA, July 17, 1791.

DEAR SIR,—I have a dozen times taken up my pen to write to you & as often laid it down again, suspended between opposing considerations. I determine however to write from a conviction that truth, between candid minds, can never do harm. The first of Paine's pamphlets on the *Rights of Man*, which came to hand here, belonged to Mr. Beckley. He lent it to Mr. Madison who lent it to me; and

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while I was reading it Mr. Beckley called on me for it, &, as I had not finished it, he desired me, as soon as I should have done so, to send it to Mr. Jonathan B. Smith, whose brother meant to reprint it. I finished reading it, and, as I had no acquaintance with Mr. Jonathan B. Smith, propriety required that I should explain to him why I, a stranger to him, sent him the pamphlet. I accordingly wrote a note of compliment informing him that I did it at the desire of Mr. Beckley, &, to take off a little of the dryness of the note, I added that I was glad it was to be reprinted here & that something was to be publicly said against the political heresies which had sprung up among us &c. I thought so little of this note that I did not even keep a copy of it: nor ever heard a tittle more of it till, the week following, I was thunderstruck with seeing it come out at the head of the pamphlet.[1] I hoped however it would not attract notice. But I found on my return from a journey of a month that a writer came forward under the signature of Publicola, attacking not only the author & principles of the pamphlet, but myself as it's sponsor, by name. Soon after came hosts of other writers defending the pamphlet & attacking

[1] This note, which was printed in most of the American editions of the *Age of Reason*, was as follows:

"After some prefatory remarks, the Secretary of State, Mr. Jefferson, in a note to a Printer in Philadelphia, accompanying a copy of this Pamphlet for republication, observes:

"'I am extremely pleased to find it will be reprinted here, and that something is at length to be publickly said against the political heresies which have sprung up among us.

"'I have no doubt our citizens will rally a second time round the standard of Common Sense.'"

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you by name as the writer of Publicola. Thus were our names thrown on the public stage as public antagonists. That you & I differ in our ideas of the best form of government is well known to us both: but we have differed as friends should do, respecting the purity of each other's motives, & confining our difference of opinion to private conversation. And I can declare with truth in the presence of the Almighty that nothing was further from my intention or expectation than to have either my own or your name brought before the public on this occasion. The friendship & confidence which has so long existed between us required this explanation from me, & I know you too well to fear any misconstruction of the motives of it. Some people here who would wish me to be, or to be thought, guilty of improprieties, have suggested that I was Agricola, that I was Brutus &c., &c. I never did in my life, either by myself or by any other, have a sentence of mine inserted in a newspaper without putting my name to it; & I believe I never shall.

While the empress is refusing peace under a mediation unless Crakow & it's territory be ceded to her, she is offering peace on the perfect statu quo to the Porte, if they will conclude it without a mediation. France has struck a severe blow at our navigation by a difference of duty on tob^{o} carried in our & their ships, & by taking from foreign built ships the capability of naturalization. She has placed our whale oil on rather a better footing than ever by consolidating the duties into a single one of 6 livres. They amounted before to some sous over that sum. I am

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told (I know not how truly) that England has prohibited our spermaceti oil altogether, & will prohibit our wheat till the price there is 52/ the quarter, which it almost never is. We expect hourly to hear the true event of Genl Scott's expedition. Reports give favorable hopes of it. Be so good as to present my respectful compliments to Mrs. Adams & to accept assurances of the sentiments of sincere esteem & respect with which I am Dear Sir Your friend & servant.

TO JAMES MADISON J. MSS.

PHILADELPHIA July 24. 1791.

MY DEAR SIR,—Yours of the 21st came to hand yesterday. I will keep my eye on the advertisements for Halifax. The time of my journey to Virginia is rendered doubtful by the uncertainty whether the President goes there or not. It is rather thought he will not. If so, I shall go later & stay a shorter time. I presume I may set out about the beginning of September, & shall hope your company going & coming. The President is indisposed with the same blind tumour, & in the same place, which he had the year before last in New York. As yet it does not promise either to suppurate or be discussed. He is obliged to lye constantly on his side, & has at times a little fever. The young grandson has had a long & dangerous fever. He is thought better today. No news yet from Genl. Scott, nor anything from Europe worth repeating. Several merchants from Richmond (Scotch, English &c.) were here lately.

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I suspect it was to dabble in federal filth. Let me hear of your health. Adieu.

TO EDMUND PENDLETON J. MSS.

PHILADELPHIA July 24. 1791.

DEAR SIR,—I received duly your favour of the 13th and communicated it to the President. The titles of your relation were unquestionably strong of themselves & still strengthened by your recommendation. But the place was before proposed to another whose acceptance will probably fix it.

The President is indisposed with a tumour like what he had in New York the year before last. It does not as yet seem as if it would come to a head.

We are wonderfully slow in receiving news from Genl. Scott. The common accounts give reason to hope his expedition has succeeded well. You will have seen the rapidity with which the subscriptions to the bank were filled. As yet the delirium of speculation is too strong to admit sober reflection. It remains to be seen whether in a country whose capital is too small to carry on it's own commerce, to establish manufactures, erect buildings, &c., such sums should have been withdrawn from these useful pursuits to be employed in gambling? Whether it was well judged to force on the public a paper circulation of so many millions for which they will be paying about 7. per cent per ann. & thereby banish as many millions of gold & silver for which they would have paid no interest? I am afraid it is the

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intention to nourish this spirit of gambling by throwing in from time to time new aliment.

The question of war & peace in Europe is still doubtful. The French revolution proceeds steadily, & is I think beyond the danger of accident of every kind. The success of that will ensure the progress of liberty in Europe, and it's preservation here. The failure of that would have been a powerful argument with those who wish to introduce a king, lords & commons here, a sect which is all head and no body. Mr. Madison has had a little bilious touch at New York, from which he has recovered however. Adieu my dear Sir.

TO JAMES MADISON J. MSS.

PHILADELPHIA July 27. 1791.

MY DEAR SIR,—I inclose you the pamphlet desired in your's of July 24. Also the one on weights & measures received through you, of which having another copy, be pleased to keep it. In turning over some papers I came across my journal through France, & Italy, and fancied you might be willing to acquire of that country a knowledge at second hand which you refuse to acquire at the first. It is written in the way you seemed to approve on our journey. I gave E. P.'s letter to Mr. Lear. I write to Mazzei by a vessel which sails on Monday, so shall hope to hear from you by that time. No body could know of T. C's[1] application but himself, H., you &

[1] Tench Coxe, for Controller, the office made vacant by the death of Eveleigh.

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myself. Which of the four was most likely to give it out at all, & especially in such a form? Which of the four would feel an inclination to excite an opinion that you & myself were hostile to everything not Southern?—The President is much better. An incision has been made, & a kind suppuration is brought on. If Colº Lee be with you present my respects to him. Adieu.

P. S. Dispatches from Genl Scott confirm the newspaper accts of his success, except that he was not wounded.

TO WILLIAM SHORT J. MSS.

PHILADELPHIA July 28. 1791.

DEAR SIR,— * * * Young Osmont arrived here safely, & is living with Colo. Biddle in a mercantile line. He appears to be a young man of extraordinary prudence. I am endeavoring to help him in the case of his purchase of le Tonnelier, if the latter had any right to the lands he pretended to sell. Mazzei's debt may rest between him & me, & I shall endeavor to arrange it here. He was certainly a good hand to employ with the Abbé Morellet, from whom I understand there is no hope, & but little from Barrois who is the real debtor. Perhaps Barrois would pay me in books.[1] If he has a complete set of the Greek Byzantine historians this would balance the account. The wines from Champagne & Bordeaux, dress from Houdon, press from Charpentier, reveille & carriages are arrived. So is

[1] The printer of the French edition of the *Notes on Virginia*.

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Petit. You have not informed me of the cost of the Champagne, & of it's transportation to Paris, so that my account with the President remains still open. I inclose you a bill of exchange for £131-5 sterl. drawn by John Warder of this place on John Warder & co. Merch^ts^ of London which I have indorsed to you. Be pleased to let me know what it yields in livres, specie, at Paris, that I may credit the President accordingly. You will be so good as to place it to my credit either with yourself, or Mr.Grand or the W. Staphorsts as you think best. I have received my private account with you to Dec. 30. 1790. but as there have been subsequent transactions, I defer looking into it till I receive them. Your public account to July 1. 1790. is also received. As soon as that to July 1. 1791. comes to hand, I will take up the whole so as to make one job of it. In your's of May 2. you speak of your house rent, & expences to Amsterdam. As to the former you had better not charge it, because I think it will not be allowed, & because you charge it on the ground of abandoning any claim to an Outfit. If you continue in Europe an Outfit will certainly be allowed you; if you do not, still a partial allowance may be justly claimed. In whatever form I receive your account, I will take the liberty of modelling it so as to preserve to you every interest which justice and usage will admit. With respect to the expences of your journey to & from Amsterdam & your stay there; it has been the usage for those residing at a court when sent on any extraordinary mission out of the country of their residence to charge their

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expences. In my journies to London & Amsterdam I charged carriage hire, horse hire, & subsistence. The latter included my tavern expences, lodging d°. servants &c., the whole time, but nothing for clothes, pocket money vales &c. I think you may do the same. If your account is come off before you receive this, send me immediately the necessary amendment & I will insert it.—No diplomatic appointment will be made to the next session of Congress. Nothing more is known on that subject now than when I wrote you last. Your brother is expected here daily. He is well, and is making a fortune in Kentucky.—They say R. H. Lee will resign his senatorial appointment on account of his health. —The following is the translation of the cyphered passage of my letter of Jan. 24. which the mistake of 1287. for 128. & 460. for 466. had confounded. 'Humphries is gone to Lisbon, the gra*de* not *set*tled.' It was since however settled to be Resident.—Paine's pamphlet has been published & read with general applause here. It was attacked by a writer under the name of Publicola, and defended by a host of republican volunteers. None of the defenders are known. I have desired Mr. Remsen to make up a complete collection of these pieces from Bache's papers, the tory-paper of Fenno rarely admitting any thing which defends the present form of government in opposition to his desire of subverting it to make way for a king, lords & commons. There are high names here [1] in favour of this doctrine, but

[1] At this point a series of cipher numbers is written on the margin, which, translated, reads:

"Adams, Jay, Hamilton, Knox. Many of the Cincinnati. The second

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these publications have drawn forth pretty generally expressions of the public sentiment on this subject, & I thank God to find they are, to a man, firm as a rock in their republicanism. I much fear that the honestest man of the party will fall a victim to his imprudence on this occasion, while another of them, from the mere caution of holding his tongue & buttoning himself up, will gain what the other loses.

I trouble you with the care of the inclosed letters. That to Mr. G. Morris is important, as containing a bill of exchange.

P. S. Always be so good as to remember me to enquiring friends as if I had named them. Since writing the above, Petit informs me he has been all over the town in quest of Vanilla, & it is unknown here. I must pray you to send me a packet of 5a pods (batons) which may come very well in the middle of a packet of Newspapers. It costs about 24s. a baton when sold by the single baton. Petit says there is a great imposition in selling those which are bad; that Pictot generally sells good, but that still it will be safe to have them bought by some one used to them.

says nothing. The third is open. Both are dangerous. They pant after union with England as the power which is to support their projects, and are most determined Anti-gallicans. It is prognosticated that our republic is to end with the President's life. But I believe they will find themselves all head and no body."

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TO THE U. S. CHARGÉ D'AFFAIRES IN FRANCE
(WILLIAM SHORT)

PHILADELPHIA, July 28, 1791.

DEAR SIR,— * * * The difference of 62$-10 the hogshead, established by the National Assembly on tobacco brought in their and our ships, is such an act of hostility against our navigation as was not to have been expected from the friendship of that Nation. It is as new in it's nature as extravagant in its degree, since it is unexampled that any nation has endeavoured to wrest from another the carriage of it's own produce, except in the case of their Colonies. The British navigation act, so much and so justly complained of, leaves to all nations the carriage of their own commodities free. This measure too is calculated expressly to take our own carriage from us, and give the equivalent to other nations: for it is well known that the shipping of France is not equal to the carriage of their whole commerce; but the freight in other branches of navigation being on an equal footing with only 40$ the hogshead in ours, and this new arrangement giving them 62$.10 the hogshead in addition to their freight, that is to say, 102$-10 instead of 40, their vessels will leave every other branch of business to fill up this. They will consequently leave a void in those other branches, which will be occupied by English, Dutch and Swedes, on the spot. They complain of our Tonnage duty; but it is because it is not understood. In the ports of France we pay fees for anchorage, buoys and beacons, fees to measurers, weighers and guagers, and in some

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countries for light-houses. We have thought it better that the public here should pay all these, and reimburse itself by a consolidation of them into one fee, proportioned to the tonnage of the vessel, and therefore called by that name. They complain that the foreign tonnage is higher than the domestic. If this complaint had come from the English it would not have been wonderful, because the foreign tonnage operates really as a tax on their commerce, which, under this name, is found to pay 16½ dollars for every dollar paid by France. It was not conceived that the latter would have complained of a measure calculated to operate so unequally on her rival—and I still suppose she would not complain, if the thing were well understood. The refusing to our vessels the faculty of becoming national bottoms on sale to their citizens, was never before done by any nation but England. I cannot help hoping that these were wanderings of a moment, founded in misinformation, which reflection will have corrected before you receive this.

Whenever jealousies are expressed as to any supposed views of ours on the dominion of the West Indies, you cannot go farther than the truth in asserting we have none. If there be one principle more deeply rooted than any other in the mind of every American, it is that we should have nothing to do with conquest. As to commerce indeed we have strong sensations. In casting our eyes over the earth, we see no instance of a nation forbidden, as we are, by foreign powers, to deal with neighbours, and obliged with them to carry into another hemisphere, the mutual supplies necessary to

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relieve mutual wants. This is not merely a question between the foreign power and our neighbour. We are interested in it equally with the latter, and nothing but moderation, at least with respect to us, can render us indifferent to its continuance. An exchange of surplusses and wants between neighbour nations, is both a right and a duty under the moral law, and measures against right should be mollified in their exercise, if it be wished to lengthen them to the greatest term possible. Circumstances sometimes require, that rights the most unquestionable should be advanced with delicacy. It would seem that the one now spoken of, would need only a mention to be assented to by any unprejudiced mind: But with respect to America, Europeans in general, have been too long in the habit of confounding force with right. The Marquis de La Fayette stands in such a relation between the two countries, that I should think him perfectly capable of seizing what is just as to both. Perhaps on some occasion of free conversation, you might find an opportunity of impressing these truths on his mind, and that from him, they might be let out at a proper moment, as matters meriting consideration and weight, when they shall be engaged in the work of forming a Constitution for our neighbours. In policy, if not in justice, they should be disposed to avoid oppression, which, falling on us, as well as on their colonies, might tempt us to act together.[1]

The element of measure adopted by the National Assembly excludes, *ipso facto*, every nation on earth

[1] This paragraph is in cipher in original.

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from a communion of measure with them; for they acknowledge themselves, that a due proportion for admeasurement of a meridian crossing the 45th degree of latitude, and terminating at both ends in the same level, can be found in no other country on earth but theirs. It would follow then, that other nations must trust to their admeasurement, or send persons into their country to make it themselves, not only in the first instance, but when ever afterwards they may wish to verify their measures. Instead of concurring, then, in a measure which, like the pendulum, may be found in every point of the 45th degree, and through both hemispheres, and consequently in all the countries of the earth lying under that parallel, either Northern or Southern, they adopt one which can be found but in a single point of the Northern parallel, and consequently only in one country, and that country is theirs.

I left with you a statement of the case of Schweighauser & Dobrée, with the original vouchers on which it depends. From these you will have known, that being authorized by Congress to settle this matter, I began by offering to them an arbitration before honest and judicious men of a neutral nation. They declined this, & had the modesty to propose an arbitration before *merchants of their own town.* I gave them warning then, that as the offer on the part of a sovereign nation to submit to a private arbitration was an unusual condescendence, if they did not accept it then, it would not be repeated, and that the United States would judge the case for themselves hereafter. They continued to decline it, and

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the case now stands thus. The territorial judge of France has undertaken to call the United States to its' jurisdiction, and has arrested their property, in order to enforce appearance, and possess themselves of a matter whereon to found a decree: But no Court can have jurisdiction over a sovereign nation. This position was agreed to; but it was urged, that some act of Mr. Barclay's had admitted the jurisdiction. It was denied that there had been any such act by Mr. Barclay, and disavowed if there was one, as without authority from the United States, the property on which the arrest was made, having been purchased by Dr. Franklin, and remaining in his possession till taken out of it by the arrest. On this disavowal it was agreed that there could be no further contest, and I received assurance that the property should be withdrawn from the possession of the court by an evocation of the cause before the King's council, on which, without other proceedings, it should be delivered to the United States. Applications were repeated as often as dignity or even decency would permit, but it was never done. Thus the matter rests, and thus it is meant it should rest. No answer of any kind is to be given to Schweighauser & Dobrée. If they think proper to apply to their Sovereign, I presume there will be a communication either through you or their representative here, and we shall have no difficulty to show the character of the treatment we have experienced.

I will observe for your information that the sustenance of our captives at Algiers is committed to Col: Humphreys.

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You will be so kind as to remember that your public account, from the 1st day of July 1790 to the last of June 1791 inclusive, is desired before the meeting of Congress, that I may be able to lay before them the general account of the foreign fund for that year.

General Scott has returned from a successful expedition against the Northern Indians, having killed 32. warriors, taken 58. women and children prisoners, and destroyed three towns and villages, with a great deal of corn in grain and growth. A similar expedition was to follow immediately, while preparation is making for measures of more permanent effect; so that we may reasonably hope the Indians will be induced to accept of peace, which is all we desire.

Our funds have risen nearly to par. The eight millions for the bank was subscribed as fast as it could be written, and that stock is now above par. Our crops of wheat have been rather abundant, and of excellent quality. Those of Tobacco are not very promising as yet. The Census is not yet completed, but from what we hear, we may expect our whole numbers will be nearer four than three millions. I inclose a sketch of the numbers as far as we yet know them.

TO THOMAS PAINE J. MSS.

PHILADELPHIA, July 29, 1791.

DEAR SIR,—Your favor of Sep. 28, 1790. did not come to my hands till Feb. 11, and I have not answered it sooner because it said you would be here

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in the Spring. That expectation being past, I now acknowlege the receipt. Indeed I am glad you did not come away till you had written your *Rights of man*. That has been much read here, with avidity and pleasure. A writer under the signature of Publicola has attacked it. A host of champions entered the arena immediately in your defence. The discussion excited the public attention, recalled it to the *Defence of the American constitutions* and the *Discourses on Davila*, which it had kindly passed over without censure in the moment, and very general expressions of their sense have been now drawn forth; & I thank God that they appear firm in their republicanism, notwithstanding the contrary hopes & assertions of a sect here, high in names, but small in numbers. These had flattered themselves that the silence of the people under the *Defence* and *Davila* was a symptom of their conversion to the doctrine of king, lords, & commons. They are checked at least by your pamphlet, & the people confirmed in their good old faith.

Your observations on the subject of a copper coinage have satisfied my mind on that subject, which I confess had wavered before between difficulties. As a different plan is under consideration of Congress, & will be taken up at their meeting, I think to watch the proper moment, & publish your observations (except the Notes which contain facts relative to particular persons which I presume you would dislike to see published, & which are not necessary to establish the main object,) adding your name, because it will attract attention & give weight to the

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publication. As this cannot take place under four months, there is time for you to forbid me, if it should be disagreeable to you to have the observations published, which however I hope it will not be.

Genl Scott has just returned from a successful expedition against the Indians, having killed 32 warriors & taken 58 women and children & burnt several towns. I hope they will now consent to peace, which is all we ask. Our funds are near par; the crops of wheat remarkably fine; and a great degree of general prosperity arising from 4. years successive of plentiful crops, a great diffusion of domestic manufacture, a return to economy, & a reasonable faith in the new government.—I shall be happy to hear from you, & still more to see you, being with great & sincere esteem Dr. Sir your friend & servt.

TO THE PRESIDENT OF THE UNITED STATES

D. S. MSS.

PHILADELPHIA, July 30, 1791.

SIR,—I have the honour to inclose for your perusal a letter which I have prepared for Mr. Short.

The ill humour into which the French colonies are getting, and the little dependance on the troops sent thither, may produce a hesitation in the National Assembly as to the conditions they will impose in their constitution. In a moment of hesitation, small matters may influence their decision. They may see the impolicy of insisting on particular conditions which operating as grievances on us, as well as on their colonists, might produce a concert of action.

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I have thought it would not be amiss to trust to Mr. Short the sentiments in the cyphered part of the letter, leaving him to govern himself by circumstances whether to let them leak out at all or not, & whether so as that it may be known or remain unknown that they come from us. A perfect knowledge of his judgment & discretion leaves me entirely satisfied that they will be not used or so used, as events shall render proper. But if you think that the possibility that harm may be done, overweighs the chance of good, I would expunge them, as in the case of doubt it is better to say too little than too much.

TO JAMES SULLIVAN J. MSS.

PHILADELPHIA, July 31. 1791.

Th. Jefferson presents his compliments to Mr. Sullivan & thanks him for the perusal of the pamphlet he was so kind as to send him.[1] He sees with great pleasure every testimony to the principles of pure republicanism; and every effort to preserve untouched that partition of the sovereignty which our excellent constitution has made, between the general & particular governments. He is firmly persuaded that it is by giving due tone to the latter, that the former will be preserved in vigour also, the constitution having foreseen it's incompetency to all the objects of government & therefore confined it to those *specially described.* When it shall become incom-

[1] *Observations upon the Government of the United States . . .* Boston: MDCCXCI.

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petent to these also, instead of flying to Monarchy or that semblance of tranquillity which it is the nature of slavery to hold forth, the true remedy would be a subdivision as Mr. Sullivan observes. But it is hoped that by a due poise & partition of powers between the general & particular governments we have found the secret of extending the benign blessings of republicanism over still greater tracts of country than we possess, and that a subdivision may be avoided by ages, if not for ever.

TO THE SECRETARY OF WAR J. MSS.

(HENRY KNOX)

PHILADELPHIA, August 10th 1791.

DEAR SIR,—I have now the honor to return you the Petition of Mr. Moultrie on behalf of the South Carolina Yazoo Company. Without noticing that some of the highest functions of sovereignty are assumed in the very papers which he annexes as his justification, I am of opinion that Government should firmly maintain this ground; that the Indians have a right to the occupation of their Lands independent of the States within whose chartered lines they happen to be; that until they cede them by Treaty or other transaction equivalent to a Treaty, no act of a State can give a right to such lands; that neither under the present Constitution, nor the antient Confederation, had any State or person a right to Treat with the Indians, without the consent of the General Government; that that

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consent has never been given to any Treaty for the cession of the Lands in question; that the Government is determined to exert all it's energy for the patronage and protection of the rights of the Indians, and the preservation of peace between the United States and them; and that if any settlements are made on Lands not ceded by them, *without the previous consent of the United States*, the Government will think itself bound, not only to declare to the Indians that such settlements are without the authority or protection of the United States, but to remove them also by the public force.

It is in compliance with your request, my dear Sir, that I submit these ideas to you, to whom it belongs to give place to them, or such others as your better judgment shall prefer, in answer to Mr. Moultrie.

TO THE FRENCH MINISTER J. MSS.

(JEAN BAPTISTE TERNANT)

Aug. 12. 1791.

The Secretary of state has the honour to inform the Minister of France that the President will receive his letters of credence to-day at half after two: that this will be done in a room of private audience, without any ceremony whatever, or other person present than the Secretary of state, this being the usage which will be observed.

As the Secretary of state will be with the President before that hour on business, the Minister will find him there.

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TO JAMES MADISON MAD. MSS.

PHILADELPHIA Aug. 18. 1791.

MY DEAR SIR,—I have just now received your favor of the 16th. and tho' late at night I scribble a line that it may go by the morning's post. I inclose you two letters which have been awaiting you here several days. Also a copy of the census which I had made out for you. What is in red ink is conjectural, the rest from the real returns. The return of Virginia is come in this day, seven hundred & forty odd thousand, of which 296,000 blacks, both exclusive of Kentucky.—Try to arrive here on Tuesday time enough (say by 4 o'clock) to come & dine with E. Randolph, Ross &c. half a dozen in all *en petite comité*. I have been much pleased with my acquaintance with the last. He is a sensible Merchant, an enemy to gambling & all tricks of finance. My horse will certainly die from all accounts. He is out at pasture to see what fresh air & grass will do. Yours will be a fortunate aid. I have written to Mr. Randolph to look out for one to bring me back. I set out on Monday fortnight at the latest; but will try to be off some days sooner. I shall be obliged to meet the President at the Sale at George Town Octob. 17. All your acquaintances are perpetually asking if you are arrived. It has been the first question from the President every time I have seen him for this fortnight. If you had arrived before dinner to-day, I had a strong charge to carry you there. Come on then & make us all happy. Adieu my dear friend yours affectionately.

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TO THE U. S. MINISTER TO PORTUGAL (DAVID HUMPHREYS) J. MSS.

PHILADELPHIA Aug. 23. 1791.

DEAR SIR,—I received yesterday your favors of June 7. No. 21. & June 17. No. 22. Mr. Barclay will have delivered you my two letters of May 13. & July 13.

Since his departure no remarkable events have taken place. He would convey to you the official information of General Scott's success against the Indians. A second party somewhat stronger is now gone against them.

Nearly the whole of the states have now returned their census. I send you the result, which as far as founded on actual returns is written in black ink, & the numbers not actually returned, yet pretty well known, are written in red ink. Making a very small allowance for omissions, we are upwards of four millions; & we know in fact that the omissions have been very great.—Our crop of wheat is very abundant, & of the best quality ever known. There has been an extraordinary drought, prevailing most to the north of this. The crop of Hay here is short, & calamitously so further north. We have lately had the most copious rains, which will recover the Indian corn & tobacco. A spirit of gambling in the public paper has lately seized too many of our Citizens. Commerce, Manufactures, the Arts & agriculture will suffer from it if not checked. Many are ruined by it; but I fear that ruin will be no more a correction in this case than in common gaming. We cannot immediately foresee how it will terminate.

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Colo. Ternant is arrived here, as Minister plenipotentiary from France.—I shall soon be able to send you another newspaper written in a contrary spirit to that of Fenno. Freneau is come here to set up a national gazette, to be published twice a week, and on whig principles. The two papers will shew you both sides of our politics.

Being about to set out for Virginia in a few days, it will probably be two months before I shall again have the pleasure of writing to you. The President will go to Mount Vernon within three or four weeks.

TO MR. PARADISE J. MSS.

PHILADELPHIA Aug. 26. 1791.

DEAR SIR,—Tho' the incessant drudgery of my office puts it out of my power to write letters of mere correspondence, yet I do not permit them to suspend the offices of friendship, where these may affect the interests of my friends. You have in the funds of Virginia in loan office certificates reduced to specie value £905. 17–6¾ and in final settlement £62–8. These are of the description allowed by the general government to be transferred to their funds, if subscribed to them before the last day of next month. If so transferred, four ninths of them would now sell for about 22/6 the pound, or would bear an interest of 6. per cent regularly: two ninths would bear an interest of 3. per cent paid regularly, & sell for 12/6 the pound: the other three ninths will bear an interest of 6 per cent after about 8. years hence, &

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would now sell for 12/6 the pound. I wrote to Mr. Burnell to know if any orders were given him on this subject, & he answers me in the negative. Supposing that this has proceeded from your being unable at such a distance to judge of the expediency of transferring the debt from the state to the general government, I have taken the liberty this day to advise him to do it, because if not done before the last day of next month it can never be done afterwards. Observe that since Congress had said it would assume all these debts, where the parties should chuse it, the states have repealed their provision for paiment, & the moment the time is out for transferring them, their value will sink to nothing almost. Tho' I advise Mr. Burnell to transfer them to the funds of the United States, so as to secure them, yet I advise him also to let them lie there, & not to sell them till orders from England because I do not foresee any loss from waiting a while for orders. I would certainly advise powers to be given to him to sell the 6. per cents, when he finds a favorable occasion; I believe they may rise to 24/ the pound, which will be making them nearly as much sterling as they are currency. This might enable a remittance immediately to your creditors of about 500£. It might be well to authorize him also to do as to the 3. per cents, & the deferred part, what occurrences shall render expedient. It is impossible to foresee what may happen, & therefore power had better be given where there may be a full reliance in the discretion of the person.

Be so good as to present my respects to Mrs. Para-

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dise, to convey to her my acknolegement of the receipt of her favor of Mar. 1. & to pray her to consider this as intended for her as well as yourself. I am with the greatest esteem of her & yourself Dear Sir your friend & servt.

TO EDWARD RUTLEDGE [1]

PHILADELPHIA, Aug. 29, 1791.

MY DEAR SIR,—I have received your favor of the 7th by mr Harper, & that also by mr Butler. I thank you for both, and shall duly respect both. I find by the last that, not your letter on the subject of British commerce, but mine in answer to it has miscarried. Yours was dated June 20. 1790 was received July 2. & answered July 4. I send you a copy of the answer, which will read now like an old almanac, but it will shew you I am incapable of neglecting any thing which comes from you. The measures therein spoken of as in contemplation for the purpose of bringing Gr. Brit. to reason, vanished in reference of the subject to me to report on our commerce and navigation, generally to the next session of Congress. I have little hope that the result will be any thing more than to turn the left cheek to him who has smitten the right; we have to encounter not only the prejudices in favor of England, but those against the Eastern states whose ships in the opinion of some will over run our land. I have been sorry to see that your state has been over-jealous of the measures proposed

[1] From the original in the Historical Society of Pennsylvania.

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on this subject, & which really tend to relieve them from the effects of British broils. I wish you may be able to convert mr Barnwell, because you think him worth converting. Whether you do or not, your opinion of him will make me solicitous for his acquaintance, because I love the good, & respect freedom of opinion. What do you think of this scrip company? Ships are lying idle at the wharfs, buildings are stopped, capitals withdrawn from commerce, manufactures, arts & agriculture, to be employed in gambling, and the tide of public prosperity almost unparalelled in any country, is arrested in it's course, and suppressed by the rage of getting rich in a day. No mortal can tell where this will stop for the spirit of gaming when once it has seized a subject, is incurable. The taylor who has made thousands in one day, tho' he has lost them the next, can never again be content with the slow & moderate earnings of his needle. Nothing can exceed the public felicity, if our papers are to be believed, because our papers are under the orders of the scrip-men. I imagine however, we shall shortly hear that all the cash has quitted the extremities of the nation, & accumulated here. That produce, & property fall to half price there, & the same things rise to double price here. That the cash accumulated & stagnated here as soon as the bank paper gets out, will find it's vent into foreign countries, and instead of this solid medium which we might have kept for nothing, we shall have a paper one for the use of which we are to pay these gamesters 15 per cent per annum as they say. Would to God yourself, Genl Pinkney, Maj. Pink-

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ney would come forward and aid us with your efforts. You are all known, respected, wished for: but you refuse yourselves to every thing. What is to become of us, my dear friend, if the vine & the fig-tree withdraw & leave us to the bramble & thorn? You will have heard before this reaches you, of the peril into which the French revolution is brought by the flight of their king—such are the fruits of that form of government which heaps importance on Idiots, and of which the tories of the present day are trying to preach into our favour. I still hope the French revolution will issue happily. I feel that the permanence of our own leans in some degree on that, and that a failure there would be a powerful argument to prove that there must be a failure here. We have been told that a British minister would be sent out to us this summer. I suspect this depends on the event of peace or war. In the latter case they will probably send one. But they have no serious view of treating or fulfilling treaties. Adieu my dear Sir.

TO BENJAMIN BANNEKER[1] J. MSS.

PHILADELPHIA Aug. 30. 1791.

SIR,—I thank you sincerely for your letter of the 19th instant and for the Almanac it contained. No body wishes more than I do to see such proofs as you

[1] Banneker's letter, with this reply, was printed in pamphlet form, as follows:

Copy of a letter from Benjamin Banneker to the Secretary of State, with his answer. Philadelphia, Daniel Lawrence. MDCCXCII. 4to pp. 15.

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exhibit, that nature has given to our black brethren, talents equal to those of the other colors of men, and that the appearance of a want of them is owing merely to the degraded condition of their existence, both in Africa & America. I can add with truth, that no body wishes more ardently to see a good system commenced for raising the condition both of their body & mind to what it ought to be, as fast as the imbecility of their present existence, and other circumstances which cannot be neglected, will admit. I have taken the liberty of sending your Almanac to Monsieur de Condorcet, Secretary of the Academy of Sciences at Paris, and member of the Philanthropic society, because I consider it as a document to which your whole colour had a right for their justification against the doubts which have been entertained of them. I am with great esteem, Sir Your most obed^{t} humble serv^{t}.

TO THE MARQUIS DE CONDORCET J. MSS.

PHILADELPHIA Aug. 30. 1791.

DEAR SIR,—I am to acknowledge the receipt of your favor on the subject of the element of measure adopted by France. Candor obliges me to confess that it is not what I would have approved. It is liable to the inexactitude of mensuration as to that part of the quadrant of the earth which is to be measured, that is to say as to one tenth of the quadrant, and as to the remaining nine tenths they are to be calculated on conjectural data, presuming the

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figure of the earth which has not yet been proved. It is liable too to the objection that no nation but your own can come at it; because yours is the only nation within which a meridian can be found of such extent crossing the 45th degree & terminating at both ends in a level. We may certainly say then that this measure is uncatholic, and I would rather have seen you depart from Catholicism in your religion than in your Philosophy.

I am happy to be able to inform you that we have now in the United States a negro, the son of a black man born in Africa, and of a black woman born in the United States, who is a very respectable mathematician. I procured him to be employed under one of our chief directors in laying out the new federal city on the Potowmac, & in the intervals of his leisure, while on that work, he made an Almanac for the next year, which he sent me in his own hand writing, & which I inclose to you. I have seen very elegant solutions of Geometrical problems by him. Add to this that he is a very worthy & respectable member of society. He is a free man. I shall be delighted to see these instances of moral eminence so multiplied as to prove that the want of talents observed in them is merely the effect of their degraded condition, and not proceeding from any difference in the structure of the parts on which intellect depends.

I am looking ardently to the completion of the glorious work in which your country is engaged. I view the general condition of Europe as hanging on the success or failure of France. Having set such an example of philosophical arrangement within, I hope

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it will be extended without your limits also, to your dependants and to your friends in every part of the earth.

Present my affectionate respects to Madame de Condorcet, and accept yourself assurances of the sentiments of esteem & attachment with which I have the honour to be Dear Sir your most obed^{t} & most humble serv^{t}.

TO THE U. S. CONSUL AT BORDEAUX J. MSS.

(JOSEPH PENWICK)

PHILADELPHIA Aug. 30. 1791.

SIR,—The object of the present is principally to acknowledge the receipt of your favors of Feb. 10. Mar. 22. 29. & Apr. 26. and the cases of wine forwarded for the President & myself, for your care of which be pleased to accept my thanks. I hope you have drawn on Mr. Short for the balance of 14$^{\$}$. 9^{s} due to you.

The difference of 6$^{\$}$ 5^{s} duty on tob^{o} carried in French and American bottoms makes an extreme impression here. Notwithstanding the dispositions expressed by the National Assembly to treat on a friendly footing, I fear a retaliation will be thought indispensable, which if equivalent to their duty on our vessels will have the appearance of hostility. An *additional tonnage* of 12$^{\$}$. 10^{s} the ton burthen on all *French ships* entering the ports of the U. S. would be but equivalent to an *additional duty* of 6$^{\$}$. 5^{s} the hogshead on all tob^{o} carried in *American ships* into the ports of France. I take for granted the National

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Assembly were surprised into the measure by persons whose avarice blinded them to the consequences, & hope it will be repealed before our legislature shall be obliged to act on it. Such an attack on our carriage of our own productions, & such a retaliation would illy prepare the minds of the two nations for a liberal treaty as wished for by the real friends of both.

I trouble you again in the affairs of my neighbor M. de Rieux, whose letters I leave open for your perusal, as they will explain their object, together with the one addressed to yourself. I must ask the favor of you to advise Mr Plumand de Rieux of Nantes as to the best mode of remitting the money hither, as that will be much better known to you on the spot, than to me at this distance.

TO JOHN ADAMS J. MSS.

PHILADELPHIA, Aug. 30. 1791.

MY DEAR SIR,—I received some time ago your favor of July 29, and was happy to find that you saw in it's true point of view the way in which I had been drawn into the scene which must have been so disagreeable to you. The importance which you still seem to allow to my note, & the effect you suppose it to have had, tho' unintentional in me, induce me to show you that it really had no effect. Paine's pamphlet, with my note, was published here about the 2^{d} week in May. Not a word ever appeared in the public papers here on the subject for more than

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a month; and I am certain not a word on the subject would ever have been said, had not a writer, under the name of Publicola, at length undertaken to attack Mr. Paine's principles, which were the principles of the citizens of the U. S. Instantly a host of writers attacked Publicola in support of those principles. He had thought proper to misconstrue a figurative expression in my note; & these writers so far noticed me as to place the expression in it's true light. But this was only an incidental skirmish preliminary to the general engagement, and they would not have thought me worth naming, had not he thought proper to bring me on the scene. His antagonists, very criminally, in my opinion, presumed you to be Publicola, and on that presumption hazarded a personal attack on you. No person saw with more uneasiness than I did, this unjustifiable assault; and the more so when I saw it continued after the printer had declared you were not the author. But you will perceive from all this, my dear Sir, that my note contributed nothing to the production of these disagreeable pieces. As long as Paine's pamphlet stood on it's own feet & on my note, it was unnoticed. As soon as Publicola attacked Paine, swarms appeared in his defence. To Publicola then & not in the least degree to my note, this whole contest is to be ascribed & all it's consequences.

You speak of the execrable paragraph in the Connecticut papers. This it is true appeared before Publicola; but it had no more relation to Paine's pamphlet and my note, than to the Alcoran. I am satisfied the writer of it had never seen either; for

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when I passed through Connecticut about the middle of June, not a copy had ever been seen by anybody, either in Hartford or New Haven, nor probably in that whole State: and that paragraph was so notoriously the reverse of the disinterestedness of character which you are known to possess by everybody who knows your name, that I never heard a person speak of the paragraph, but with an indignation in your behalf which did you entire justice. This paragraph then certainly did not flow from my note, any more than the publications which Publicola produced. Indeed it was impossible that my note should occasion your name to be brought into question; for so far from naming you, I had not even in view any writing which I might suppose to be yours, and the opinions I alluded to were principally those I had heard in common conversation from a sect aiming at the subversion of the present government to bring in their favorite form of a king, lords & commons.

Thus I hope, my dear Sir, that you will see me to have been as innocent *in effect* as I was in intention. I was brought before the public without my own consent, & from the first moment of seeing the effort of the real aggressor in this business to keep me before the public, I determined that nothing should induce me to put pen to paper in the controversy. The business is now over, & I hope it's effects are over, and that our friendship will never be suffered to be committed, whatever use others may think proper to make of our names.

The event of the King's flight from Paris & his

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recapture, will have struck you with its importance. It appears I think that the nation is firm within, and it only remains to see whether there will be any movement from without. I confess I have not changed my confidence in the favourable issue of that revolution, because it has always rested on my own ocular evidence of the unanimity of the nation, & wisdom of the Patriotic party in the National Assembly. The last advices render it probable that the Emperor will recommence hostilities against the Porte. It remains to see whether England and Prussia will take a part. Present me to Mrs. Adams with all the affections I feel for her, and be assured of those devoted to yourself by, my dear Sir, your sincere friend & servt.

TO THE FRENCH MINISTER J. MSS.

(JEAN BAPTISTE TERNANT)

PHILADELPHIA. Sept. 1. 1791.

SIR,—I have communicated to the President what passed between us the other day, on the subject of the payments made to France by the United States in the *assignats* of that country, since they have lost their par with gold & silver: and after conferences, by his instruction, with the Secretary of the Treasury, I am authorized to assure you, that the government of the United States have no idea of paying their debt in a depreciated medium, and that in the final liquidation of the payments which shall have been made, due regard will be had to

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an equitable allowance for the circumstance of depreciation.[1]

TO THE PRESIDENT OF THE UNITED STATES

J. MSS.

[Oct. 23, 1791.]

Th: Jefferson has the honour to subjoin the alternative he suggested in the last paragraph of the President's speech.[2]

Having read Colo. Humphrey's letters after Mr. Short's he had been lead into an erroneous arrangement of the facts they state. Colo. Humphrey's letter mentioning the King's refusal of the constitution is of Aug. 22. while it appears by Mr. Short's letter of Aug. 30. that it had not yet been presented to him, & that it was believed he would ratify it.

[1] In the first draft of this letter, the conclusion read:
"and that they will take measures for making these payments in their just value, avoiding all benefit from depreciation, and desiring on their part to be guarded against any unjust loss from the circumstances of mere exchange."

In this state it was submitted to Hamilton who wrote:

"Mr. Hamilton presents his compliments to the Secretary of State. He would think the turn of expression on the whole safer, if instead of what follows the words 'depreciated medium' the following was substituted—'and that in the final liquidation of the payments, which shall have been made, due regard will be had for an equitable allowance for the circumstance of depreciation.'"

Both the draft and Hamilton's reply are misdated August, 1792, in Hamilton's *Writings*.

[2] "A provision for the sale of the vacant lands of the United States is particularly urged by the important considerations that they are pledged as a fund for reimbursing the public debt; that, if timely and judiciously applied they may save the necessity of burthening our citizens with new taxes for the extinguishment of the principal; and that being free to pay annually but a limited proportion of that principal, time lost in beginning the payments cannot be recovered however productive the resource may prove in event."

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TO THE U. S. CHARGÉ D'AFFAIRES IN SPAIN

(WILLIAM CARMICHAEL) J. MSS.

PHILADELPHIA. Nov. 6. 1791.

SIR,—My last letter to you was of the 24th of August. A gentleman going from home to Cadiz will be the bearer of this, and of the newspapers to the present date, and will take care that the letter be got safe to you if the papers cannot.

Mr. Mangnall, at length tired out with his useless solicitations at this office, to obtain redress from the court of Spain for the loss of the *Doser* cutter, has laid the matter before Congress, & the Senate have desired me to report thereon to them. I am sorry to know nothing more of the subject than that letter after letter has been written to you thereon, and that the office is in possession of nothing more than acknolegements of your receipt of some of them so long ago as Aug. 1786. and still to add that your letter of Jan. 24. 1791. is the only one received of later date than May 6. 1789. You certainly will not wonder if the receipt of but one letter in two years & an half inspires a considerable degree of impatience. I have learnt thro' a circuitous channel that the court of Madrid is at length disposed to yield to our right of navigating the Missisipi. I sincerely wish it may be the case, and that this act of justice may be made known before the delay of it produces anything intemperate from our Western inhabitants.

Congress is now in session. You will see in the papers herewith sent the several weighty matters

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laid before them in the President's speech. The session will probably continue through the winter. I shall sincerely rejoice to receive from you not only a satisfactory explanation of the reasons why we receive no letters, but grounds to hope that it will be otherwise in future.

TO THE PRESIDENT OF THE UNITED STATES

J. MSS.

PHILADELPHIA, November 7th 1791.

SIR,—I have duly considered the letter you were pleased to refer to me, of the 18th of August from his Excellency Governor Pinckney, to yourself, together with the draught of one proposed to be written by him to the Governor of Florida, claiming the redelivery of certain fugitives from justice, who have been received in that Country. The inconveniences of such a receptacle for debtors and malefactors in the neighbourhood of the southern States are obvious and great; and I wish the remedy were as certain and short as the letter seems to suppose.

The delivery of fugitives from one Country to another, as practised by several Nations, is in consequence of conventions settled between them, defining precisely the cases wherein such deliveries shall take place. I know that such conventions exist between France and Spain, France and Sardinia, France and Germany, France and the United Netherlands; between the several sovereigns constituting the Germanic Body, and, I believe, very generally between co-terminous States on the Continent of Europe. England has no such Convention

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with any nation, and their laws have given no such power to their Executive to surrender fugitives of any description; they are accordingly constantly refused, and hence England has been the asylum of the Paolis, the La Mottes, the Calonnes, in short, of the most atrocious offenders as well as the most innocent victims, who have been able to get there.

The laws of the United States, like those of England, receive every fugitive, and no authority has been given to our Executives to deliver them up. In the case of Longechamp, a subject of France, a formal demand was made by the minister of France, and was refused. He had, indeed, committed an offence within the United States but he was not demanded as a criminal but as a subject.

The French Government has shown great anxiety to have such a convention with the United States, as might authorize them to demand their subjects coming here; they got a clause in the consular convention signed by Dr. Franklin and the Count de Vergennes, giving their Consuls a right to take and send back Captains of vessels, mariners and *passengers*. Congress saw the extent of the word *passengers*, and refused to ratify the Convention; a new one was therefore formed, omitting that word. In fact, however desirable it be that the perpetrators of crimes, acknowledged to be such by all mankind, should be delivered up to punishment, yet it is extremely difficult to draw the line between those and acts rendered criminal by tyrannical laws only; hence the first step always, is a convention defining the cases where a surrender shall take place.

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If then the United States could not deliver up to Governor Quesada, a fugitive from the laws of his Government, we cannot claim as a right the delivery of fugitives from us: and it is worthy consideration, whether the demand proposed to be made in Governor Pinckney's letter, should it be complied with by the other party, might not commit us disagreeably, perhaps dishonorably in event; for I do not think we can take for granted, that the legislature of the United States will establish a convention for the mutual delivery of fugitives; and without a reasonable certainty that they will, I think we ought not to give Governor Quesada any grounds to expect, that in a similar case, we would re-deliver fugitives from his Government.

TO THE PRESIDENT OF THE UNITED STATES

J. MSS.

PHILADELPHIA Nov. 8. 1791.

SIR,—I have now the honour to inclose you a report on the lands of the U. S. within the North Western and South Western territories, unclaimed either by Indians, or by Citizens of these states.

In order to make the estimate of their quantity & situation, as desired by the legislature, it appeared necessary first to delineate the Indian boundaries which Circumscribe those territories, & then to present a statement of all claims of citizens within the same; from whence results the residuary unclaimed mass, whereon any land law the legislature may

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think proper to pass, may operate immediately, & without obstruction.

I have not presumed to decide on the merits of the several claims, nor consequently to investigate them minutely. This will only be proper, when such of them as may be thought doubtful, if there should be any such, shall be taken up for final decision.

REPORT ON INDIAN LANDS

Nov. 8. 1791.

The Secretary of State to whom was referred by the President of the U. S. the resolution of Congress requesting the President "to cause an estimate to be laid before Congress at their next session of the quantity & situation of the lands not claimed by the Indians, nor granted to, nor claimed by, any citizens of the U. S. within the territory ceded to the U. S. by the state of North Carolina & within the territory of the U. S. north west of the river Ohio," makes thereon the following Report.

South western Territory. The territory ceded by the State of North Carolina to the U. S. by deed bearing date the 25th. day of Feb. 1790 is bounded as follows to wit; beginning in the boundary between Virginia & N. Carolina, that is to say, in the parallel of latitude 36½ degrees North from the equator on the extreme height of the stone mountain, where the sd boundary or parallel intersects it, & running thence along the sd extreme height of

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the river Missisipi; thence up the middle of the sd. river to where it is intersected by the first mentioned parallel of 36½ degrees; then along the sd parallel to the beginning: which tract of Country is a degree & a half of latitude from North to South, & about 360 miles in general from East to West, as nearly as may be estimated from such maps as exist of that Country.

Indian Claims. The Indians having claims within the sd tract of country are the Cherokees & Chickasaws, whose boundaries are settled by the treaties of Hopewell, concluded with the Cherokees on the 28 day of Nov. 1785, & with the Chickasayos on the 10th day of January 1786, and by the treaty of Holston concluded with the Cherokees July 2. 1791. These treaties acknowledge to the sd Indians all the lands Westward & Southward of the following lines, to wit, Beginning in the boundary between South & North Carolina where the South Carolina Indian boundary strikes the same; thence North to a point from which a line is to be extended to the river Clinch that shall pass the Holston at the ridge which divides the waters; and containing, as may be conjectured without pretending to accuracy, between seven and eight thousand square miles or about 5. millions of acres; And to one other parcel to the Westward, somewhat triangular also, comprehending parts of the counties of Sumner, Davidson & Tannissee, the base whereof extends about 150 miles also, from East to West on the same Virginia Line, & it's height from North to South, about 55 miles, & so may comprehend about five thousand

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square miles, or upwards of two & an half millions of acres of land.

Claims of Citizens. Within these however are the following claims of citizens reserved by the deed of cession & consequently which furnish exceptions to the rights of the U. S.

I. Appropriations by the state of North Carolina for their Continental & State Officers & Souldiers.

II. Grants, & Titles to grants vested in individuals by the laws of the State.

III. Entries made in Armstrong's office under an act of that State of 1783 for the redemption of specie & other certificates.

TO WILLIAM SHORT [1]

PHILADELPHIA, Nov. 9, 1791.

T. Pinckney of S. C. has this day the offer of the Mission to London, as M. P. When we know whether he accepts or not, which will not be these 6. weeks, the Nomination of a M. P. for Par. & a Min. Resid. for the Hague will be made. The former is in suspense between yourself & another. If you do not have that, you will have the latter. There was never a symptom by which I could form a guess on this subject till 3 days ago. Nobody here will know a word of it these 6. weeks. Hearing a vessel in this port was just hoisting sail for Havre, I avail myself of it to give you the information which you are to keep secret, till it may be openly communicated.

[1] All but the date is in cipher in original.

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REPORT ON MANGNALL D. S. MSS.

[Nov. 10, 1791.]

The Secretary of State, to whom was referred by the Senate of the United States, the petition of John Mangnall, has had the same under consideration, and thereupon makes the following Report.

He finds that Congress, on the application of the Petitioner, resolved on the 27th day of Sep. 1780. that the profit of the capture of the *Doser* cutter should be divided among the captors, & that the honble Mr. Jay, their Minister Plenipotentiary at the court of Madrid should be instructed to endeavor to obtain for the sd captors the benefit by their resolve of Octob. 14. 1777.

That such instructions were accordingly sent by the Committee for foreign Affairs to Mr. Jay, who continued, during his residence there, to press the settlement of this claim, under very varying prospects as to the result.

That after he came to the direction of the office for foreign Affairs, he continued to press the same subject through our Chargé des Affaires at Madrid; and it has been since resumed & urged in the strongest terms by the Secretary of State.

That as yet no information is received of what has been done, or is likely to be done.

That the circumstances of the country where this business has been transacted, have rendered the transmission & receipt of letters at all times difficult & precarious, & latterly in a remarkable degree.

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But still that there will be no remission of endeavors to obtain justice for the Petitioner & his Associates.

As to so much of the petition as prays that a pension may be allowed him until the adjustment of his claim, it will rest with the wisdom of the Senate to decide on it's reasonableness. The precedent will indeed be new, & may bring on other applications in similar cases to which the irregular conduct of officers military & civil, have given rise, & will perpetually give rise. But if they shall perceive that the measure is right, the consequence that it will lead to repetitions in other cases equally right ought to be met.[1]

As to so much of the said petition as prays that the petitioner may be allowed a pension from the Public until his claim shall be decided at the Court of Madrid, the Secretary of State observes, that in times of war questions are continually arising on the legitimacy of capture, on acts of piracy, on acts of violence at sea, and in times of peace on seizures for contraband, regular & irregular, which draw on discussions with foreign nations, always of long continuance, and often of results in which expedience rather than justice renders acquiescence adviseable; that some such cases are now depending between the Governments of the United States and of other countries; that a great number of Applications might be made for pensions on the same ground with the present, both now and hereafter; that it is not known that the claims are just 'till they are

[1] This whole paragraph struck out in original.

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heard and decided on, and even when decided to be just, the Government from which it is due is alone responsible for the money: and He is therefore of opinion that such a pension ought not to be granted.

TO JAMES MADISON MAD. MSS.

Nov. 11. 1791.

In my report on How's case, where I state that it should go to the President, it will become a question with the house whether they shall refer it to the President themselves, or give it back to the petitioner, & let him so address it, as he ought to have done at first. I think the latter proper, 1, because it is a case belonging purely to the Executive; 2, the legislature should never show itself in a matter with a foreign nation, but where the case is very serious and they mean to commit the nation on it's issue; 3, because if they indulge individuals in handing through the legislature their applications to the Executive, all applicants will be glad to avail themselves of the weight of so powerful a solicitor. Similar attempts have been repeatedly made by individuals to get the President to hand in their petitions to the legislature, which he has constantly refused. It seems proper that every person should address himself directly to the department to which the constitution has allotted his case; and that the proper answer to such from any other department is, 'that it is not to us that the constitution has

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assigned the transaction of this business." I suggest these things to you, that if they may appear to you to be right, this kind of business may in the first instance be turned into it's proper channel.

TO HUGH WILLIAMSON J. MSS.

Nov. 13. 1791.

DEAR SIR,—On considering the subject of the clause you wished to have introduced in the inclosed bill, I found it more difficult than I had on first view imagined. Will you make the first trial against the patentee conclusive against all others who might be interested to contest his patent? If you do he will always have a collusive suit brought against himself at once. Or will you give every one a right to bring actions separately? If you do, besides running him down with the expences & vexations of lawsuits, you will be sure to find some jury in the long run, who from motives of partiality or ignorance, will find a verdict against him, tho' a hundred should have been before found in his favour. I really believe that less evil will follow from leaving him to bring suits against those who invade his right. If, however, you can get over the difficulty & will drop me a line, I will try to prepare a clause, tho' I am sure you will put your own ideas into form better than any body else can.

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REPORT ON HOWE

Nov. 14. 1791.

The Secretary of State, to whom was referred by the House of Representatives the Petition of William Howe, praying satisfaction from the United States, for a Debt due to him in Nova Scotia, and whereon Judgment has been rendered against him, contrary to existing Treaties, as he supposes, with Instructions to examine the same, and report his Opinions thereupon to the House, has had the same under consideration, and thereupon Reports:

That if the facts be justly stated in the Petition; Indemnification is to be sought from a foreign Nation, and, therefore, that the Case is a proper one to be addressed to the President of the United States.

That, when in that Channel, if it shall be found after advising with Counsel at Law, that the Verdict or Judgment rendered in the said Case is Inconsistent with Treaty, it will become a proper Subject of Representation to the Court of London, and of Indemnification from them to the Party.

That to this Interposition the Petitioner will, in that case, be entitled, but not to any Reimbursement from the United States directly.

TO THE CHARGÉ D'AFFAIRES IN FRANCE

(WILLIAM SHORT)

PHILADELPHIA Nov 24, 1791.

DEAR SIR,— * * * You mention that Drost wishes the devices of our money to be sent to him,

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that he may engrave them there. This cannot be done, because not yet decided on. The devices will be fixed by the law which shall establish the mint. M. de Ternant tells me he has no instructions to propose to us the negotiation of a commercial treaty, and that he does not expect any. I wish it were possible to draw that negotiation to this place.—In your letter of July 24, is the following paragraph.

"It is published in the English newspapers that war is inevitable between the U. S. & Spain, & that preparations are making for it on both sides. M. de Montmorin asked me how the business stood at present, & seemed somewhat surprised at my telling him that I knew nothing later than what I had formerly mentioned to him.—I have in more than one instance experienced the inconvenience of being without information. In this it is disagreeable, as it may have the appearance with M. de Montmorin, of my having something to conceal from him, which not being the case it would be wrong that he should be allowed to take up such an idea.—I observed that I did not suppose there was any new circumstance, as you had not informed me of it."

Your observation was certainly just. It would be an Augean task for me to go through the London newspapers and formally contradict all their lies, even those relating to America. On our side, there have been certainly no preparations for war against Spain; nor have I heard of any on their part but *in the London newspapers*. As to the progress of the negotiation, I know nothing of it but from you; having never had a letter from Mr. Carmichael on the sub-

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ject. Our best newspapers are sent you from my office, with scrupulous exactness, by every vessel sailing to Havre, or any other convenient port of France. On these I rely for giving you information of all the facts possessed by the public; and as to those not possessed by them, I think there has not been a single instance of my leaving you uninformed of any of them which related to the matters under your charge. In Freneau's paper of the 21st inst. you will see a small essay on population & emigration, which I think it would be well if the news writers of Paris would translate & insert in their papers. The sentiments are too just not to make impression.

Some proceedings of the assembly of St. Domingo have lately taken place, which it is necessary for me to state to you exactly that you may be able to do the same to M. de Montmorin. When the insurrection of their negroes assumed a very threatening appearance the assembly sent a deputy here to ask assistance of military stores & provisions. He addressed himself to M. de Ternant, who (the President being then in Virginia, as I was also) applied to the Secretaries of the Treasury & War. They furnished 1000 stand of arms, other military stores, and placed 40,000 dollars in the Treasury subject to the order of M. de Ternant, to be laid out in provisions, or otherwise, as he should think best. He sent the arms & other military stores; but the want of provisions did not seem so instantaneous, as to render it necessary, in his opinion, to send any at that time. Before the vessel arrived in St. Domingo, the Assem-

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bly, further urged by the appearance of danger, sent two deputies more, with large demands; viz 8000 fusils & bayonets, 2000 mousquators, 3000 pistols, 3000 sabres, 24,000 barrels of flour, 400.000 worth of Indian meal, rice, peas & hay, & a large quantity of plank, &c. to repair the buildings destroyed. They applied to M. de Ternant, & then, with his consent to me; he & I having previously had a conversation on the subject. They proposed to me 1. that we should supply those wants from the money we owed France; or 2. for bills of exchange which they were authorized to draw on a particular fund in France; or 3. that we would guarantee their bills, in which case they could dispose of them to merchants, & buy the necessaries themselves. I convinced them the two latter alternatives were beyond the powers of the Executive, & the 1st could only be done with the consent of the Minister of France. In the course of our conversation, I expressed to them our sincere attachment to France & all it's dominions, & most especially to them who were our neighbors, and whose interests had some common points of union with ours, in matters of commerce; that we wished therefore to render them every service they needed; but that we could not do it in any way disagreeable to France; that they must be sensible that M. de Ternant might apprehend that jealousy would be excited by their addressing themselves directly to foreign powers, & therefore that a concert with him in their applications to us was essential. The subject of independance & their views towards it having been stated in the public papers, this led our conversation

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to it & I must say they appeared as far from these views as any persons on earth. I expressed to them freely my opinion that such an object was neither desirable on their part nor attainable; that as to ourselves there was one case which would be peculiarly alarming to us, to wit, were there a danger of their falling under any other power; that we concieved it to be strongly our interests that they should retain their connection with the mother country; that we had a common interest with them in furnishing them the necessaries of life in exchange for sugar & coffee for our own consumption, but that I thought we might rely on the justice of the mother country towards them, for their obtaining this privilege; and on the whole let them see that nothing was to be done but with the consent of the minister of France. I am convinced myself that their views & their application to us are perfectly innocent; however M. de Ternant, & still more M. de La Forest are jealous. The deputies on the other hand think that M. de Ternant is not sensible enough of their wants. They delivered me sealed letters to the President, & to Congress. That to the President contained only a picture of their distresses & application for relief. That to Congress I know no otherwise than thro' the public papers. The Senate read it & sent it to the Representatives, who read it and have taken no other notice of it. The line of conduct I pursue is to persuade these gentlemen to be contented with such moderate supplies from time to time as will keep them from real distress, & to wait with patience for what would be a surplus till M. de

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Ternant can receive instructions from France which he has reason to expect within a few weeks; and I encourage the latter gentleman even to go beyond their absolute wants of the moment, so far as to keep them in good humour. He is accordingly proposing to lay out 10.000 dollars for them for the present. It would be ridiculous in the present case to talk about forms. There are situations when form must be dispensed with. A man attacked by assassins will call for help to those nearest him, & will not think himself bound to silence till a magistrate may come to his aid. It would be unwise in the highest degree that the colonists should be disgusted with either France or us; for it might then be made to depend on the moderation of another power whether what appears a chimæra might not become a reality. I have thought it necessary to go thus fully into this transaction, & particularly as to the sentiments I have expressed to them, that you may be enabled to place our proceedings in their true light.

Our Indian expeditions have proved successful. As yet however they have not led to peace.—Mr. Hammond has lately arrived here as Minister Plenipotentiary from the court of London, and we propose to name one to that court in return.—Congress will probably establish the ratio of representation by a bill now before them at one representative for every 30.000 inhabitants. Besides the newspapers as usual, you will receive herewith the Census lately taken by towns & counties as well as by states.

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CLAUSES FOR TREATY OF COMMERCE WITH FRANCE [1]

J. MSS.

[November 1791]

The citizens of the U. S. & of France & of their dominions, their vessels, productions & manufactures, as well those raised by their industry from the sea, as from the soil, shall be received and treated, each in all the dominions of the other, as if they were the native citizens, or the home built vessels, or the productions, or the manufactures of the other.

Saving that the duties payable on the productions or manufactures of either country or its dominions,

[1] See I, 207 and "Questions to be considered of" (page 337). A first draft of this paper is as follows:

"It is to be understood however that either party may lay duties on productions or manufactures provided they do not exceed per cent. ad valorem on manufactures & per cent, ad valorem on raw materials, nor what shall be paid by any other the most favored nation, the value to be estimated as at the port of shipment.

"No premium shall be given directly or indirectly on the manufactures or productions of either country carried into the other. To be considered of—prodns. of the sea e: gr.

"'And saving also that the duties whether of their own soil, or raised by them from the sea, as well as those raised from the sea as from the soil, payable on the productions or manufactures of the domns. of either country imported into those of the other may remain as at present where they do not exceed per cent. on the value of the article at the port of exportn in which case of excess they are hereby *ipso facto* reduced to that measure and where they shall be hereafter reduced by either party on any article in favor of any other nation, they shall stand *ipso facto* reduced on the same article in favor of the other party; yielding the like equivalent only where the reduction has been for an equivalent.'

"And in order that the beneficial restraint of duties may not be defeated by premiums, it is agreed that every premium for any production or manufacture of either country shall be extended by the party to the like production or manufacture of the other party complyg with the same condns."

In the Jefferson MSS. is also a paper in Jefferson's writing, giving

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imported into the other or it's dominions, may remain as at present, where they do not exceed
per cent. on the value of the article at the port of importation; in which case of excess they are hereby, *ipso facto*, reduced to that measure: and where they shall be hereafter reduced by either party, on any article, in favor of any other nation, they shall stand *ipso facto* reduced on the same article in favor of the other party, yielding the like equivalent only

Hamilton's scheme for a treaty, which as it has not been printed, is here added, to elucidate the slowly developing cabinet dissensions:

"10 per cent. on manuf. of flax, hemp, wool, cotton, silk, furs or mixtures of ym.

Solid silver, copper, brass, iron, steel, tin, pewter, flour, salted beef, pork & pot, & oils.

Except, bar iron, bar lead, nails, steel wrought cables, cordage, yarn, twine, & pack thread.

15 do—on Porcelain, glass, stone, earthen wares.

50 do—On Spirits distilled from fruits.

25 do—On Wines.

Free in & out—Grains, peas, & other vegetables.
Live cattle
Pitch, tar, turpentine
Unmanufactured wood
Indigo, pot & peach ash
Flax, hemp, cotton, silk, wool

Free out—all raw materials.

5 out—Brown & clayed sugars.

Gentis amicissimæ—All non enumerated articles.

Reciprocal—Charges on vessels, cargoes, & merchts. not within scope of above articles.

No bounties—on goods to be exported to countries of others.
Nor on it's own ships, or things imported in them.

No prohib's.—of any article of the other.

Favors to others—to be common, on same condn.

No reduction of duty in favr of other nations but same condns. of this.

The above contains Hamilton's tariff of the duties which cannot be receded from in treaty with France, spoken of in my private note of March 11, 92."

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where the reduction has been for an equivalent. And that this beneficial restraint of duties on the industry of either may not be defeated by premiums on that of the other, it is agreed that every premium for any production or manufacture of either country shall be extended on ye same conditions by the party giving it to the like production or manufacture of the other.

Saving also to the persons of their citizens mutually that they shall continue under these incapacities of Office & suffrage, each with the other, which the constitution or laws of France or of the U. S. or any of them, or of any of their dominions, here or shall establish against foreigners of all nations without exception.

QUESTIONS TO BE CONSIDERED OF[1] D. S. MSS.

[Nov. 26, 1791.]

I. As to France.

Shall it be proposed to M. de Ternant, to form a treaty, ad referendum, to this effect.

"The citizens of the U. S. and of France, their vessels, productions & manufactures shall be received and considered, each in all the dominions of the other, as if they were the native citizens, or the ships, productions or manufactures of that other. And the productions of the sea shall be received in all the dominions of each as if they were the productions of the country by the industry of whose

[1] Endorsed: "From the Secretary of State, 26th Novr., 1791. Questions to be considered of, in the Negotiations with the French & British Ministers."

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citizens they have been taken or produced from the sea.

"Saving only as to the persons of their citizens, that they shall continue under those incapacities for office, each with the other, which the Constitutions of France, or of the U. S. or any of them, have or shall establish against foreigners of all nations without exception."

If not, shall a treaty be proposed to him, ad referendum, in which the conditions shall be detailed on which the persons, ships, productions & manufactures of each shall be received with the other, and the imposts to which they shall be liable be formed into a tariff?

Shall the Senate be consulted in the beginning, in the middle, or only at the close of this transaction?

II. As to England.

Shall Mr. Hammond be *now* asked whether he is instructed to give us any explanations of the intentions of his court as to the detention of our Western posts, and other infringements of our treaty with them?

Shall he be now asked whether he is authorized to conclude, or to negotiate, any commercial arrangements with us?

TO THE BRITISH MINISTER J. MSS.

(GEORGE HAMMOND)

PHILADELPHIA, Nov. 29. 1791.

SIR,—In recalling your attention to the Seventh Article of the Definitive Treaty of Peace between the United States of America and his Britannic

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Majesty, wherein it was stipulated that His Britannic Majesty should, with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons and fleets from the said United States, and from every post, place, and harbour within the same. I need not observe to you that this article still remains in a state of inexecution, nor recapitulate what, on other occasions, has past on this subject. Of all this I presume you are fully apprised. We consider the friendly movement lately made by the court of London, in sending a Minister to reside with us, as a favorable omen of it's disposition to cultivate harmony and good will between the two nations; and we are perfectly persuaded that these views will be cordially seconded by yourself in the ministry which you are appointed to exercise between us. Permit me then, Sir, to ask whether you are instructed to give us explanations of the intentions of your court as to the execution of the article above quoted?

With respect to the Commerce of the two Countries, we have supposed that we saw in several instances, regulations on the part of your government, which if reciprocally adopted, would naturally injure the interests of both nations.

On this subject too, I must beg the favor of you to say whether you are authorized to conclude, or to negociate arrangements with us, which may fix the Commerce between the two Countries on principles of reciprocal advantage?

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RESOLUTIONS CONCERNING ALGIERS [1] J. mss.

[Dec. 2, 1791.]

Draught of a Secret resolution of the Senate.

Resolved by the Senate of the U.S. that if the President of the the U. S. shall think proper to enter into any treaty or convention for the purpose of ransoming the citizens of the U.S. now in captivity at Algiers at an expense not exceeding [40.000] dollars, or for the preservation of peace in future with that & with Tunis or Tripoli or both powers at an expence not exceeding [40.000] dollars to be annually paid for years the Senate will advise & consent to the ratification thereof.

Ransom.

The ransom lately agreed on by persons unauthorised and unknown.....	34.792
Clothes and passages of 14. persons @ 100. D. each	1.400
Expenses of negotiator, &c....suppose about	3.000
	39,192
Should the attempt be made & fail it will Probably cost.....	5,000

Peace—The Dutch, Danes, Swedes, and Venetians pay from 24,000 to 30,000 @ annually.

[1] These were sent to Senator Butler with the following note:

"Dec. 2, 1791.

"Th: Jefferson presents his compliments to Mr. Butler, and incloses him the rough draughts of resolutions believing Mr. Butler can better settle according to his own mind the manner of furnishing the money either from his own reflection or on consultation with the Secy of the Treasury."

The resolutions were not adopted, however, the only action the Senate took being recorded in the *Executive Journal*, I, 123.

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France as is said, besides presents, from time to time pays 100,000 annually.

England it is supposed expends one year with another 280,000

Draught of a Secret resolution of both houses.

Resolved by the Senate & House of Representatives of the U. S. in Congress assembled, that if the President of the U. S. by & with the advise & consent of the Senate shall think proper to enter into any treaty or convention for the purpose of ransoming the citizens of the U. S. now in captivity at Algiers at an expence not exceeding [40.000] dollars or for the preservation of peace in future with that power & with Tunis or Tripoli or both at an expence not exceeding [40,000] to be annually paid for years, the Congress of the U. S. will provide for the expences of any measures which he shall take for accomplishing these objects, tho' such measures should not succeed, provided such expences exceed not [5000] dollars.

Then should follow a resolution for furnishing the money beforehand, &c.

TO THE BRITISH MINISTER J. MSS.

(GEORGE HAMMOND)

PHILADELPHIA, Dec. 5, 1791.

SIR,—Your favor of Nov. 30, remains still unanswered because the clerks are employed in copying some documents on the subject of the treaty of peace which I wish to exhibit to you with the answer.

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In the mean time, as to that part of your letter which respects matters of commerce, the fear of misunderstanding it induces me to mention my idea of it and to ask if it be right. Where you are pleased to say that you are "authorised to communicate to this government his majesty's readiness to enter into a negociation for establishing that intercourse [of Commerce] upon principles of reciprocal benefit," I understand that you are not furnished with any commission or express powers to arrange a treaty with us, or to make any specific propositions on the subject of commerce; but only to assure us that his Britanic majesty is ready to concur with us in appointing persons, times and places for commencing such a negociation. Be so good as to inform me if there be any misapprehension in this, as some steps on our part may be necessary in consequence of it.

NOTE ON SPANISH NEGOTIATIONS[1] J. MSS.

[DEC. 6, 1791.]

Don Joseph Jaudenes communicated verbally to the Secretary of State that his Catholic majesty has been apprized through the channel of the court of Versailles of our sollicitude to have some arrangements made respecting our free navigation of the Missisipi, & a port thereon convenient for the deposit of merchandise of export & import, for lading and unlading the sea and river vessels, & that his majesty will be ready to enter into treaty thereon

[1] See *post*, pages 356, 381.

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directly with us, whenever we shall send to Madrid a proper & acceptable person duly authorized to treat on our part.

NOTES ON BRITISH NEGOTIATIONS

December 12th, 1791.

The discussions which are opening between Mr. Hammond and our government, have as yet looked towards no objects but those which depend on the treaty of peace. There are, however, other matters to be arranged between the two governments, some of which do not rest on that treaty. The following is a statement of the whole of them:

1st. The West posts.

2d. The negroes carried away.

3d. The debt of their bank in Maryland, and perhaps Rhode Island.

4th. Goods taken from the inhabitants of Boston, while the town was in their possession, and compensation promised.

5th. Prizes taken after the dates at which hostilities were to cease.

6th. Subsistence of prisoners.

7th. The Eastern boundary.

Which of these shall be taken into the present discussion?

Which of them shall be left to arrangement through the ordinary channels of our ministers, in order to avoid embarrassing the more important points with matters of less consequence?

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On the subject of commerce shall Mr. Hammond be desired to produce his powers to treat, as is usual, before conferences are held on that subject?

TO THE BRITISH MINISTER J. MSS.

(GEORGE HAMMOND)

PHILADELPHIA, Dec. 12, 1791.

SIR,—I take the liberty of enclosing you an extract of a letter from a respectable character, giving information of a Mr. Bowles [1] lately come from England into the Creek country, endeavouring to excite that nation of Indians to war against the United States and pretending to be employed by the government of England. We have other testimony of these pretensions, & that he carries them much farther than there stated. We have too much confidence in the justice & wisdom of the British government to believe they can approve of the proceedings of this incendiary & impostor, or countenance for a moment a person who takes the liberty of using their name for such a purpose; and I make the communication merely that you may take that notice of the case which in your opinion shall be proper.

TO THE BRITISH MINISTER J. MSS.

(GEORGE HAMMOND)

PHILADELPHIA, December 13, 1791.

Sir,—I have laid before the President of the United States the letters of Nov. 30, and Dec. 6.

[1] A Maryland Loyalist who later styled himself a chief of the Creek Indians. See Ford's *Writings of Washington*, XII, 159, and *Maryland Loyalist*, 33.

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with which you honored me, and in consequence thereof, and particularly of that part of your letter of Dec. 6th where you say you are fully authorised to enter into a negociation for the purpose of arranging the commercial intercourse between the two countries, I have the honor to inform you that I am ready to receive a communication of your full powers for that purpose at any time you shall think proper, and to proceed immediately to their object.

TO THE PRESIDENT OF THE UNITED STATES

D.S.MSS.

Dec. 13, 1791.

Th: Jefferson presents his respects to the President of the U. S. and sends him the letter he has prepared for Mr. Hammond relative to his Commercial commission.

He also includes the rough draught[1] of the one he has prepared on the subject of the treaty of Peace, with the documents he proposes to communicate in support of the facts. The 1st of these (the Substance of the Conference &c) is communicated because Carleton was more explicit in that conversation, than in his letter of May 12. as to the magnitude of the first embarcation and that the negroes then embarked were the property of the U. S. Yet this piece of evidence does not seem essentially necessary, and Th. J. asks the opinion of the President on the subject. He will wait on him to-day a quarter before three on these subjects.

[1] See under May 29th, 1792, in this collection.

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DRAFT FOR PRESIDENT'S MESSAGE ON INDIAN WAR [1]

J. MSS.

[Dec. 16, 1791.]

GENTLEMEN OF —— The pacific measures which were adopted for establishing peace between the United States & the North Western Indians having proved ineffectual, and the military operations which thereon became necessary, tho' successful in the first instance, being otherwise in the last as was stated to you in my communication of instant, it behoves us to look forward in time to the further protection of our Western citizens.

I see no reason to doubt that operations of force must still be pursued. I have therefore instructed the Secretary at war, to prepare, for your information, a statement of the transactions of his department material to this object. These are now laid before you. While they serve to shew that the plan which was adopted for employing the public force & wealth was such as promised reasonably a more effectual issue, they will enable you also to judge of the provision which it may now be expedient to make for the ensuing year. An estimate of the Secretary at war on this subject is now laid before you.

[1] This was enclosed to the President with the following note.

"Dec. 16. 1791.

"Th. Jefferson presents his respects to the President and sends a sketch of such a message as he thinks might accompany the statement from the Secretary at war. That an estimate of the next years operations should accompany it. But he thinks it a proper occasion to bring forward the preparations for the next year, and that it forms the safest ground for making the present communication."

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OPINION RELATIVE TO CERTAIN LANDS ON LAKE ERIE, SOLD BY THE UNITED STATES TO PENNSYLVANIA

December 19, 1791.

The Secretary of State, to whom was referred, by the President of the United States, a letter from the Governor of Pennsylvania, with the documents therein mentioned, on the subject of certain lands on Lake Erie, having had the same under consideration, thereupon Reports:

That Congress, by their resolution of June 6th, 1788, directed the Geographer General of the United States to ascertain the quantity of land belonging to the United States between Pennsylvania and Lake Erie, and authorized a sale thereof.

That a sale was accordingly made to the commonwealth of Pennsylvania.

That Congress, by their resolution of September 4th, 1788, relinquished to the said commonwealth all their right to the government and jurisdiction of the said tract of land; but the right of soil was not transferred by the resolution.

That a survey of the said tract has been since made, and the amount of the purchase money been settled between the comptrollers of the United States and of the said Commonwealth, and that the Governor of Pennsylvania declares in the said letter, to the President of the United States, that he is ready to close the transaction on behalf of the said commonwealth.

That there is no person at present authorized, by law, to convey to the said commonwealth the right of soil, in the said tract of land.

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And the Secretary of State is therefore of opinion that the said letter and documents should be laid before the legislature of the United States to make such provision by law for conveying the said right of soil, as they in their wisdom shall think fit.

REPORT ON NEGOTIATION WITH SPAIN [1]

[Dec. 22, 1791.]

The Secretary of State reports to the President of the United States, that one of the Commissioners of Spain, in the name of both, has lately communicated to him, verbally, by order of his Court, that his Catholic Majesty, apprized of your solicitude to have some arrangements made respecting our free navigation of the river Mississippi, and the use of a port thereon, is ready to enter into a treaty thereon at Madrid.

The Secretary of State is of opinion, that this overture should be attended to without delay, and that the proposal of treating at Madrid, though not what might have been desired, should yet be accepted, and a commission plenipotentiary made out for the purpose.

That Mr. Carmichael, the present Chargé des Affaires of the United States at Madrid, from the local acquaintance which he must have acquired with persons and circumstances, would be an useful and proper member of the commission: but that it would be useful, also, to join with him some person

[1] From *Senate Executive Journal*, I., 95.

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more particularly acquainted with the circumstances of the navigation to be treated of.

That the fund appropriated by the act providing the means of intercourse between the United States and foreign nations, will insufficiently furnish the ordinary and regular demands on it, and is, consequently, inadequate to the mission of an additional Commissioner express from hence.

That, therefore, it will be advisable, on this account, as well as for the sake of despatch, to constitute some one of the Ministers of the United States in Europe, jointly with Mr. Carmichael, Commissioners Plenipotentiary, for the special purpose of negotiating and concluding with any person or persons duly authorized by his Catholic Majesty, a convention or treaty for the free navigation of the river Mississippi by the citizens of the United States, under such accommodations with respect to a port, and other circumstances, as may render the said navigation practicable, useful, and free from dispute: saving to the President and Senate their respective rights as to the ratification of the same; and that the said negotiation be at Madrid, or such other place in Spain as shall be desired by his Catholic Majesty.

TO ARCHIBALD STUART J. MSS.

PHILADELPHIA. Dec 23, 1791.

DEAR SIR,—I received duly your favor of Octob 22. and should have answered it by the gentleman who delivered it, but that he left town before I knew of it.

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That it is really important to provide a constitution for our state cannot be doubted: as little can it be doubted that the ordinance called by that name has important defects. But before we attempt it, we should endeavor to be as certain as is practicable that in the attempt we should not make bad worse. I have understood that Mr. Henry has always been opposed to this undertaking: and I confess that I consider his talents and influence such as that, were it decided that we should call a Convention for the purpose of amending, I should fear he might induce that convention either to fix the thing as at present, or change it for the worse. Would it not therefore be well that means should be adopted for coming at his ideas of the changes he would agree to, & for communicating to him those which we should propose? Perhaps he might find ours not so distant from his but that some mutual sacrifices might bring them together.

I shall hazard my own ideas to you as hastily as my business obliges me. I wish to preserve the line drawn by the federal constitution between the general & particular governments as it stands at present, and to take every prudent means of preventing either from stepping over it. Tho' the experiment has not yet had a long enough course to shew us from which quarter encroachments are most to be feared, yet it is easy to foresee from the nature of things that the encroachments of the state governments will tend to an excess of liberty which will correct itself (as in the late instance) while those of the general government will tend to monarchy, which will fortify

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itself from day to day, instead of working its own cure, as all experience shews. I would rather be exposed to the inconveniences attending too much liberty than those attending too small a degree of it. Then it is important to strengthen the state governments: and as this cannot be done by any change in the federal constitution, (for the preservation of that is all we need contend for,) it must be done by the states themselves, erecting such barriers at the constitutional line as cannot be surmounted either by themselves or by the general government. The only barrier in their power is a wise government. A weak one will lose ground in every contest. To obtain a wise & an able government, I consider the following changes as important. Render the legislature a desirable station by lessening the number of representatives (say to 100) and lengthening somewhat their term, and proportion them equally among the electors: adopt also a better mode of appointing Senators. Render the Executive a more desirable post to men of abilities by making it more independant of the legislature. To wit, let him be chosen by other electors, for a longer time, and ineligible for ever after. Responsibility is a tremendous engine in a free government. Let him feel the whole weight of it then by taking away the shelter of his executive council. Experience both ways has already established the superiority of this measure. Render the Judiciary respectable by every possible means, to wit, firm tenure in office, competent salaries, and reduction of their numbers. Men of high learning and abilities are few in every country;

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& by taking in those who are not so, the able part of the body have their hands tied by the unable. This branch of the government will have the weight of the conflict on their hands, because they will be the last appeal of reason.—These are my general ideas of amendments; but, preserving the ends, I should be flexible & conciliatory as to the means. You ask whether Mr. Madison and myself could attend on a convention which should be called? Mr. Madison's engagements as a member of Congress will probably be from October to March or April in every year. Mine are constant while I hold my office, and my attendance would be very unimportant. Were it otherwise, my office should not stand in the way of it. I am with great & sincere esteem, Dr Sir, your friend & servt.

TO THE PRESIDENT OF THE UNITED STATES

J. MSS.

PHILADELPHIA December 23, 1791.

SIR,—As the conditions of our commerce with the French and British Dominions, are important, and a moment seems to be approaching, when it may be useful that both should be accurately understood, I have thrown a representation of them into the form of a Table, shewing at one view, how the principal articles, interesting to our Agriculture and Navigation, stand in the European and American dominions of these two Powers. As to so much of it as respects France, I have cited under every article the law on which it depends: which laws, from 1784, downwards, are in my possession.

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Port charges are so different; according to the size of the vessel, and the dexterity of the captain, that an examination of a greater number of Port-bills might, perhaps, produce a different result. I can only say that, that expressed in the Table, is fairly drawn from such Bills as I could readily get access to, and that I have no reason to suppose it varies much from the truth, nor on which side the variation would lie. Still, I cannot make myself responsible for this article. The authorities cited will vouch the rest.[1]

[1] See pages 361 and 362 for a correction to these tables.

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Footing of the Commerce of the United States with France & England, & with the French and English Amr. Colonies

	FRANCE	GREAT BRITAIN AND IRELAND
Wheat-Flour, &c.[1]	(a) Free	Prohibited till it is 6./3. the bushel.
Rice.	(a) Free.	7./4. sterl. the kental.
Salted fish.	(b) 8 l. Kental.	Prohibited.
Salted beef.	(c) 5 l. the K.	Prohibited.
Salted pork.	(d) 5 l. k. in some ports. prohibited in others.	4/4. 9. K.
Furs.	(a) Free.	15 to 20 p. c.
Indigo.	(c) 5 l. k.	Free.
Whale oil.	(a) 7 l. 10 s. the barr. of 520 lbs.	£18 3s. ton.
Tar, pitch, Turpentine.	(a) 2½ p. c. 5 sous the kental, by new Tariff.	11d. 11./ 2./3. B.
Ships.	(a) free for naturalisation.	Prohibited naturalisatn.
Port charges. (b)	cents. average. Bordeaux, 23 the ton } 18 Havre, 14 the ton }	average. London, 76 Liverpool, 61 Bristol, 1.43 } 1.09 dols. Hull, 1.57 }
Exports to. (f)	1,384,246 D.	(b) 6,858,970 D.
Imports from. (f)	155,136 D.	13,965,464 D.
Freighted in *their* vessels. (f)	9,842 tons.	119,194 tons.
Freighted in *our* vessels (f)	19,173 tons.	39,171 tons.

	FRENCH AMERICA	ENGLISH AMERICA
Wheat, Flour, &c.	(g) Prohibited by a general law. Free, by suspensions from time to time.	Free, by proclamn.
Rice.	(c) 1 pr cent.	Free, by proclamn.
Salted fish.	(h) 1 pr c. X 3 l. k.	Prohibited.
Salted beef.	(c) 1 pr c. X 3. l k.	Prohibited.
Port charges.	Cape Franc, .96 Port au Prince, .40 } .55 Martinique, .18 }	Jamaica, .76 Antigua, .22 Barbadoes, .42 } .44 St. Kitts, .43 Dominique, .21 } average.
Exports to.	3,284,656 D.	2,357,583 D.
Imports from.	1,913,212 D.	1,319,964 D.
Freighted in *their* vessels.	3,959 tons	107,759 tons.
Freighted in *our* vessels	97,236 tons.	Prohibited.

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The following Articles, being on an equal footing in both Countries, are thrown together

	France	Great Britain and Ireland
Tobacco.	Free of duty, but under monopoly.	1./3. the lb.
Wood.	Free. (a)	Free.
Pot & Pearl Ash.	Free. (a)	Free.
Flax seed.	Free. (a)	Free.

	French America	English America
Corn Indian.	1 p. c. (c)	Free, by proclamn.
Wood.	1 p. c. (c)	Free, by proclamn.
Salted pork.	Prohibited. (c)	Prohibited.
Horses & mules.	Free. (c)	Free, by proclamn.
Live provisions.	1 p. c. (c)	Free, by proclamn.
Tar, pitch, Turpentine.	1 p. c. (c)	Free, by proclamn.
Imports allowed.	Rum, molasses generally, sugar, and all other commodities till Augt 1, 1794.	Rum, molasses, sugar, coffee, cocoa nuts, pimento, ginger, by proclamation.

(a) By *Arret* of Dec. 29, 1787. (b) By *Arret* of 1763.
(c) By *Arret* of Aug. 30, 1784. (d) By *Arret* of 1688.
(e) By *Arret* of 1760.
(f) Taken from the Custom house returns of the United States.
(g) There is a general law of France prohibiting foreign Flour in their Islands, with a suspending power to their Governors, in cases of necessity. An *Arret* of May 9, 1789, by their Governor makes it free till 1794, August; and in fact it is generally free there.
(h) The *Arret* of Sept. 18, 1785, gave a premium of 10$\frac{2}{3}$ the Kental on fish brought in their own bottoms, for 5 years, so that the law expired Sept. 18, 1790. Another *Arret*, past a week after, laid a Duty of 5 l. the kental, on fish brought in foreign vessels, to raise money for the premium before mentioned. The last *Arret* was not limited in time; yet seems to be understood as only commensurate with the other. Accordingly an *Arret* of May 9, 1789, has made fish in foreign bottoms liable to 3 l. the kental only till Aug. 1, 1794.
(i) The Port charges are estimated from Bills collected from the merchants of Philadelphia. They are different in different ports of the same country, and different in the same ports on vessels of different sizes. Where I had several bills of the same port, I averaged them together. The dollar is rated at 4.1 4$\frac{1}{2}$. sterling in England, at 6. 18. in the British West Indies, and 5$\frac{1}{3}$ 12^{s}. in France, and at 8$\frac{1}{3}$ 5^{s}. in the French West Indies.
Several articles stated to be *free* in France, do in fact pay one-eighth of a per cent, which was retained merely to oblige an entry to be made in their Custom house books. In like manner several of the articles stated to be *free* in England, do in fact pay a light duty. The English duties are taken from the Book of rates.

	Dollars.	
(k) The Exports to Great Britain & Ireland, are.....		6,888,978 50
How much they consume I know not. They certainly re-export the following—		
	Dollars.	
Grain, the whole since the law of the last parliament.....	1,093,885	
Tobacco, $\frac{1}{3}$, according to Sheffield's Tables.....	2,295,411	
Rice, $\frac{1}{3}$, according to same.....	552,750	
Indigo, $\frac{1}{3}$, according to same.....	315,887	
Furs, probably $\frac{1}{3}$.....	17,950	
Ginseng, the whole.....	32,424	
Mahogany, Wine } not being of our productions should also be deducted.....	16,724	
	4.425	
		4,329,456 00
Remainder, including their consumption and the unknown re-exportations.....		2,559,522 00

The re-exportations certainly known then are $\frac{2}{3}$ of the whole.

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TO THE SECRETARY OF THE U. S. TERRITORY SOUTH OF THE RIVER OHIO J. MSS.

(DANIEL SMITH)

PHILADELPHIA, Dec. 24, 1791.

SIR,—I have to acknowlege the receipt of your favor of Sep. 1. and Octob. 4. together with the report of the Executive proceedings in the South Western Government from March 1. to July 26.

In answer to that part of yours of Sept. 1. on the subject of a seal for the use of that government, I think it extremely proper & necessary, & that one should be provided at public expense.

The opposition made by Governor Blount & yourself to all attempts by citizens of the U. S. to settle within the Indian lines without authority from the General government is approved, and should be continued.

There being a prospect that Congress, who have now the post Office bill before them, will establish a post from Richmond to Stanton, & continue it there towards the S. W. government a good distance, if not nearly to it, our future correspondence will be more easy, quick & certain.

NOTE ON SPANISH NEGOTIATIONS J. MSS.

[Dec. 27, 1791.]

Don Joseph Jaudenes (at a dinner at the city tavern) told me he had received new instructions from his court to express to us the king's dispositions to settle everything on the most friendly footing and to express his uneasiness at having received the communication of our sentiments thro' the chargé

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des affaires of France, while a direct communication was open between us, the matter having been only suspended, but not broken off since the departure of Mr. Gardoqui, and to express his pleasure also at the polite reception the President had given to his Commissioners here.[1]

DRAFT OF PRESIDENT'S MESSAGE ON DIPLOMATIC NOMINATIONS[2] J. MSS.

[Jan. 1–4, 1792.]

GENTLEMEN OF THE SENATE,——

Your house has been pleased to communicate to me their resolutions, purporting a decision by them that it is expedient from whence an implication arises that in their opinion they might have decided that no such appointments were expedient.

After mature consideration & consultation, I am of opinion that the constitution has made the President the sole competent judge to what places circumstances render it expedient that Ambassadors or other public ministers should be sent, & of what grade they should be: and that it has ascribed to the

[1] See letter of Jan. 26, 1792, and *ante*, p. 342.

[2] Endorsed "not sent." There is a first or rough draft of this paper, also, which is somewhat fuller and quotes from the Constitution. The message was probably prepared in consequence of the Senate resolution of Dec. 30, 1791: "*Resolved*, That the Senate do not possess evidence sufficient to convince them that it will be for the interest of the United States to appoint Ministers Plenipotentiary to reside permanently at foreign Courts." The contest led to an interview between a Senate Committee and Jefferson (see I, 186), after which the Senate rescinded their resolution, and confirmed the appointments. This message was in consequence unnecessary. *Cf.* with Opinion, *ante*, p. 49.

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Senate no executive act but the single one of giving or withholding their consent to the person nominated.

I think it my duty therefore to protest, & do protest against the validity of any resolutions of the Senate asserting or implying any right in that house to exercise any executive authority, but the single one before mentioned.

It is scarcely necessary to add that nothing herein is meant to question their right to concur in making treaties: this being considered not as a branch of Executive, but of Legislative powers, placed by the constitution under peculiar modifications.

TO THOMAS MANN RANDOLPH J. MSS.

PHILADELPHIA, Jan. 1, 1792.

DEAR SIR,—Your favor of Nov. 28 came to hand on the 22d ult. The length of time it was on the way shews that our post was not yet become exact. The post-office bill now before the legislature will place on the regular establishment, as it directs a cross post from Richmond to Columbia, Charlottesville, Staunton, and thence along that valley southwest and to the southwestern government & so on to Kentuckey. I urged strenuously to our representatives the impropriety of sending a post destined for the Southwestern government & Kentuckey, by the way of Charlottesville & Staunton, as it was palpable to me from my own knowlege of the country that it ought from Columbia to pass up James river to Lynchburg and by the peaks of Otter & to have left Charlottesville and Staunton still to take care of

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themselves. They decided otherwise however, which so far as my own interest is concerned is a convenience to me and so far as my neighbors & friends are benefited might by them be favorably imputed to me, but I had rather withdraw my claim to their favor in this instance, than found it in what I think would have been wrong.—You will have heard that the representation bill is lost, & might have been saved had R. H. Lee been here at any moment during it's dependance. Nothing more is yet done on the subject. The measures to be taken for the defence of the Western country are not yet brought forward. Half a dozen Cherokees arrived here two days ago. They have not yet explained their business.—I thank you for your experiment on the Peach tree. It proves my speculation practicable, as it shews that 5. acres of peach trees at 21. feet apart will furnish dead wood enough to supply a fireplace through the winter, & may be kept up at the trouble of only planting about 70. peach stones a year. Suppose this extended to 10. fireplaces, it comes to 50. acres of ground, 5000 trees, and the replacing about 700 of them annually by planting so many stones. If it be disposed at some little distance, say in a circular annulus from 100. to 300 yards from the house, it would render a cart almost useless.—When I indulge myself in these speculations, I feel with redoubled ardor my desire to return home to the pursuit of them, & to the bosom of my family, in whose love alone I live or wish to live, & in that of my neighbors.—But I must yet a little while bear up against my weariness of public office.

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Maria says she is writing to her sister. My next week's letter will inclose a bank bill for the £35.— Present my tender affections to my daughter & accept assurances of the same to yourself.

TO WILLIAM SHORT [1]

January 3, 1792.

You are nominated to the Senate, Minister Resident to the Hague; Thomas Pinckney, Minister Plenipotentiary to London. Gouverneur Morris, Minister Plenipotentiary to France. A party in the Senate against Morris has joined with another party which is against all permanent foreign establishments, and neither being strong enough to carry their point separately, they have been now twelve days in suspense, looking for the result as to what compromise they will form together. Whatever you may hear otherwise, be assured that no mortal, not even their own body, can at this moment guess the result. You shall know it by the first vessel after it is known to me.

TO THE CHAIRMAN OF SENATE COMMITTEE ON NOMINATIONS

(CALEB STRONG)

PHILADELPHIA, Jan. 4. 1792.

SIR,—I am just now made to recollect a mistake in one of the answers I gave last night to the committee of the Senate, and which therefore I beg leave to correct.[2] After calling to their minds the footing

[1] All in cipher. From the *Southern Bivouac*, II, 433.

[2] See Vol. I, 186.

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on which Mr. Morris had left matters at the court of London, & informing them of what had passed between the British ministers here & myself, I was asked whether this was all that had taken place, whether there had been no other or further engagement. I paused, you may remember, to recollect; I knew nothing more had passed on the other side of the water because Mr. Morris's powers there had been determined, & I endeavoured to recollect whether anything else had passed with Mr. Hammond & myself. I answered that this was all, & added in proof that I was sure nothing had passed between the President & Mr. Hammond personally, & so I might safely say this was all.—It escaped me that there had been an informal agent here (Col. Beckwith) & so informal that it was thought proper that I should never speak on business with him, and that on a particular occasion, the question having been asked whether if a British minister should be sent here, we would send one in exchange, it was said, thro' another channel, that one would doubtless be sent. Having only been present when it was concluded to give this answer, and not having been myself the person who communicated it, nor having otherwise had any conversation with Col. Beckwith on the subject it absolutely escaped my recollection at the moment the committee put the question, and I now correct the error I committed in my answer with the same good faith with which I committed the error in the first moment. Permit me to ask the favor of you, Sir, to communicate this to the other members of the Committee and to consider

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this as a part of the information I had the honor of giving the Committee on the subject.

TO THE PRESIDENT OF THE UNITED STATES D. S. MSS.

PHILADELPHIA January 4, 1792.

SIR,—Having been in Conversation today with Monsr. Payan, one of the St. Domingo deputies, I took occasion to inquire of him the footing on which our commerce there stands at present, and particularly whether the colonial *Arret* of 1789, permitting a free importation of our Flour till 1793, was still in force. He answered that, that *Arret* was revoked in France on the clamours of the merchants there; and that a like permission to carry Flour to the three usual ports, and he thinks to bring away Coffee and Sugar, was immediately renewed by the Governor. Whether this has been regularly kept up by renewed *Arrets* during the present troubles he cannot say, but is sure that in practice it has never been discontinued, and that not by contraband, but openly and legally, as is understood. The public application to us to send Flour there is a proof of it. Instead therefore of resting this permission on a colonial *Arret* till 1793, it should be rested on temporary *Arrets* renewed from time to time as heretofore. This correction of the notes I took the liberty of laying before you, with the table containing a comparative view of our commerce with France and England, I thought it my duty to make.

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TO PLUMARD DE RIEUX

PHILADELPHIA, Jan. 6. 1792.

DEAR SIR,—Your favor of Nov. 15. was a month getting to me. Since my receipt of it, I have taken such opportunities as my business & acquaintance here would allow me, to try whether I could obtain money for you, on the ground explained in your letter, either from the bank, or any other persons. The bank gives money in exchange only for *merchants'* notes, & on application to merchants I find that nothing will induce them to lend either their money or their credit to an individual. In fact they strain both to their utmost limits for their own purposes. The rage of gambling in the stocks, of various descriptions is such, and the profits *sometimes* made, & therefore *always* hoped in that line are so far beyond any interest which an individual can give, that all their money & credit is centered in their own views. The bank has just now notified it's proprietors that they may call for a dividend of 10. per cent on their capital for the last 6. months. This makes a profit of 26. per cent per annum. Agriculture, commerce, & every thing *useful* must be neglected, when the *useless* employment of money is so much more lucrative.

I inclose you a letter from Mr. Mazzei open as it came to me. Finding that you could not receive your legacy till a certificate of your being alive at the time of the testator's death should be sent there, I have [*illegible*] your life as on the 11th of Octob. last, under his seal of my office, which I have

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indorsed to Mr. Short to be delivered to Mr. de Bellonger to be used for you. This may save time. But lest it should be disputed, I would advise you to go before a magistrate, and get your personal appearance certified by him, & let it be certified under the seal of the commonwealth that he is a magistrate duly qualified. I inclose you a copy of the certificate I have sent. I have said nothing to Mr. Mazzei on this subject.

TO WILLIAM SHORT [1]

January 10, 1792, 8 A.M.

Tho' the Senate has been constantly on the subject of my cyphered letter, there is no decision as yet. We have been constantly in expectation that each day they would finish it.

REPORT ON COMMERCIAL RESTRICTIONS OF DENMARK

J. MSS.

[Jan 10 1792]

The Secretary of State having received information that the Merchants and Merchandize of the United States are subject in Copenhagen and other ports of Denmark to considerable extra duties, from which they might probably be relieved by the presence of a Consul there; Reports to the President of the United States:

That it would be expedient to name a Consul, to be resident in the port of Copenhagen: That he has not been able to find that there is any citizen of the United States residing there: That there is a certain

[1] From the *Southern Bivouac*, II, 434.

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Hans Rodolph Saabye, a Danish subject and merchant of that place of good character, of wealth and distinction, and well qualified and disposed to act there for the United States, who would probably accept of the commission of Consul; but that that of Vice-Consul, hitherto given by the President to foreigners in ports where there was no proper American citizen, would probably not be accepted, because in this as in some other ports of Europe, usage has established it as a subordinate grade.—

And that he is therefore of opinion, that the said Hans Rodolph Saabye should be nominated Consul of the United States of America for the port of Copenhagen, and such other places within the allegiance of his Danish Majesty as shall be nearer to the said port than to the residence of any other Consul or Vice-Consul of the United States within the same allegiance.

TO MARTHA JEFFERSON RANDOLPH [1]

PHILADELPHIA, January 15th, 1792.

MY DEAR MARTHA,—Having no particular subject for a letter, I find none more soothing to my mind than to indulge itself in expressions of the love I bear you, and the delight with which I recall the various scenes through which we have passed together in our wanderings over the world. These reveries alleviate the toils and inquietudes of my present situation, and leave me always impressed with the desire of being at home once more, and of

[1] From S. N. Randolph's *Domestic Life of Jefferson.*

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exchanging labor, envy, and malice for ease, domestic occupation, and domestic love and society; where I may once more be happy with you, with Mr. Randolph and dear little Anne, with whom even Socrates might ride on a stick without being ridiculous. Indeed it is with difficulty that my resolution will bear me through what yet lies between the present day and that which, on mature consideration of all circumstances respecting myself and others, my mind has determined to be the proper one for relinquishing my office. Though not very distant, it is not near enough for my wishes. The ardor of these, however, would be abated if I thought that, on coming home, I should be left alone. On the contrary, I hope that Mr. Randolph will find a convenience in making only leisurely preparations for a settlement, and that I shall be able to make you both happier than you have been at Monticello, and relieve you of désagrémens to which I have been sensible you were exposed, without the power in myself to prevent it, but by my own presence. Remember me affectionately to Mr. Randolph, and be assured of the tender love of yours.

TO THOMAS PINCKNEY J. MSS.

PHILADELPHIA, Jan 17. 1792.

SIR,—Your favors of Nov 29, 30, & Dec 1, came duly to hand and gave sincere pleasure by announcing your disposition to accept the appointment to London. The nominations to Paris & the Hague having been detained till yours could be made, they

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were all immediately sent into the Senate, to wit, yourself for London, Mr. G. Morris for Paris; Mr. Short for the Hague. Some members of the Senate apprehending they had a right of determining on the *expediency* of foreign missions, as well as on the *persons* named, took that occasion to bring forward the discussion of that question, by which the nominations were delayed two or three weeks. I am happy to be able to assure you that not a single personal motive with respect to yourself entered into the objections to these appointments. On the contrary I believe that your nomination gave general satisfaction. Your commission will be immediately made out, but as the opportunities of conveyance at this season are precarious, & you propose coming to this place, I think it better to retain it.

As to the delay proposed in your letter, it was to be expected: indeed a winter passage from Charleston to this place or across the Atlantic is so disagreeable, that if either that circumstance or the arrangement of your affairs should render it in the smallest degree eligible to you to remain at home until the temperate season comes on to stay till after the Vernal equinox, there will be no inconvenience to the public, attending it. On the contrary, as we are just opening certain negotiations with the British minister here, which have not yet assumed any determinate complexion, a delay till that time will enable us to form some judgment of the issue they may take, and to know exactly in what way your cooperation at the place of your destination may aid us. On this and other accounts it will be highly useful

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that you take this place in your way, where, or at New York, you will always be sure of finding a convenient passage to England.

REPORT ON RUSSELL D. S. MSS.

Jan. 22, 1792.

The Secretary of State, to whom was referred by the President of the United States, the letter of the Governor of Virginia of January 7th, 1792, with the Report of a Committee of the House of Delegates of that Commonwealth of December 12th, 1791, and Resolution of the General Assembly thereon of December 17th on the case of Charles Russell, late an Officer in the service of the said Commonwealth, stating that a considerable part of the Tract of Country allotted for the Officers and Soldiers having fallen into the State of North Carolina on the extention of their common boundary, the Legislature of the said State had in 1781 passed an Act substituting in lieu thereof the Tract of Country between the said boundary and the Rivers Mississippi, Ohio, and Tennissee, and subjecting the same to the claims of their officers and Soldiers: that the said Charles Russell had in consequence thereof directed warrants for 2666⅔ Acres of Land to be located within the said Tract of Country; but the same belonging to the Chickasaws, he is unable to obtain a right thereto, and that there are other officers and Soldiers of the said Commonwealth under like circumstances: Reports.

That the Tract of Country before described, is within the boundaries of the Chickasaw Nation as established by the Treaty of Hopewell the 10th day of January 1786.

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That the right of occupancy of the said Lands therefore being vested in the said nation, the case of the said Charles Russell and other Officers and Soldiers of the said Commonwealth becomes proper to be referred to the Legislature of the United States for their consideration.

TO THE U. S. MINISTER TO THE HAGUE J. MSS.

(WILLIAM SHORT)

PHILADELPHIA January 23d, 1792.

DEAR SIR,—I have the pleasure to inform you that the President of the United States has appointed you Minister Resident for the United States at the Hague, which was approved by the Senate on the 16th inst. This new mark of the President's confidence will be more pleasing to you, as it imports an approbation of your former conduct, whereon be pleased to accept my congratulations. You will receive herewith a letter from myself to Monsr. de Montmorin closing your former mission, your new Commission, letters of Credence from the President for the States general and Stadtholder sealed, and copies of them open for your own satisfaction. You will keep the cypher we have heretofore used.

Your past experience in the same line renders it unnecessary for me to particularize your duties on closing your present, or conducting your future mission. Harmony with our friends being our object, you are sensible how much it will be promoted by

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attention to the manner, as well as the matter of your communications with the Government of the United Netherlands.

I feel myself particularly bound to recommend, as the most important of your charges, the patronage of our Commerce and the extension of it's privileges, both in the United Netherlands and their Colonies, but most especially the latter.

The allowance to a Minister resident of the United States is 4500 dollars a year *for all his personal services and other expences*, a year's salary for his outfit, and a quarter's salary for his return. It is understood that the *personal services and other expences* here meant, do not extend to the cost of gazettes and pamphlets transmitted to the Secretary of State's Office, to translating or printing necessary papers, postage, couriers, and necessary aids to poor American sailors. These additional charges therefore may be inserted in your accounts; but no other of any description, unless where they are expressly directed to be incurred. The salary of your new grade being the same as of your former one, and your services continued tho' the scene of them is changed, there will be no intermission of salary; the new one beginning where the former ends, and ending when you shall receive notice of your permission to return. For the same reason there can be but one allowance of outfit and return, the former to take place now, the latter only on your final return. The funds appropriated to the support of the foreign establishment, do not admit the allowance of a Secretary to a Minister resident. I have thought it best to

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state these things to you minutely, that you may be relieved from all doubt as to the matter of your accounts. I will beg leave to add a most earnest request, that on the 1st day of July next, and on the same day annually afterwards, you make out your account to that day, and send it by the first vessel and by duplicates. In this I must be very urgent and particular, because at the meeting of the ensuing Congress always it is expected that I prepare for them a statement of the disbursements from this fund from July to June inclusive. I shall give orders by the first opportunity to our Bankers in Amsterdam to answer your draughts for the allowances herein before mentioned, recruiting them at the same time by an adequate remitment; as I expect that by the time you receive this they will not have remaining on hand of this fund more than 7 or 8000 dollars.

You shall receive from me from time to time the laws and journals of Congress, gazettes and other interesting papers; for whatever information is in possession of the public I shall leave you generally to the gazettes, and only undertake to communicate by letter such, relative to the business of your mission, as the gazetteers cannot give. From you I shall ask, once or twice a month, regularly, a communication of interesting occurrences in Holland, of the general affairs in Europe, and the regular transmission of the Leyden gazette by every British packet, in the way it now comes, which proves to be very regular. Send also such other publications as may be important enough to be read by one who

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can spare little time to read anything, or which may contain matter proper to be turned to on interesting subjects and occasions. The English packet is the most certain channel for such epistolatory communications as are not very secret, and by those packets I would wish always to receive a letter from you by way of corrective to the farrago of news they generally bring. Intermediate letters, secret communications, gazettes and other printed papers had better come by private vessels from Amsterdam, which channel I shall use generally for my letters, and always for gazettes and other printed papers.

The President has also joined you in a special and temporary commission with Mr. Carmichael to repair to Madrid, and there negotiate certain matters respecting the navigation of the Missisipi, and other points of common interest between Spain and us. As some time will be necessary to make out the instructions and transcripts necessary in this business, they can only be forwarded by some future occasion; but they shall be soon forwarded, as we wish not to lose a moment in advancing negotiations so essential to our peace. For this reason I must urge you to repair to the Hague at the earliest day the settlement of your affairs in Paris will admit, that your reception may be over, and the idea of your being established there strengthened before you receive the new orders.

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TO THE U. S. MINISTER TO FRANCE J. MSS.

(GOUVERNEUR MORRIS)

PHILADELPHIA January 23, 1792.

DEAR SIR,—I have the pleasure to inform you that the President of the United States has appointed you Minister Plenipotentiary for the United States at the court of France, which was approved by the Senate on the 12th instant, on which be pleased to accept my congratulations. You will receive herewith your Commission, a Letter of Credence for the King sealed and a copy of it open for your own satisfaction, as also a Cypher to be used on proper occasions in the correspondence between us.

To you it would be more than unnecessary for me to undertake a general delineation of the functions of the Office to which you are appointed. I shall therefore only express our desire, that they be constantly exercised in that spirit of sincere friendship and attachment which we bear to the French Nation; and that in all transactions with the Minister, his good dispositions be conciliated by whatever in language or attentions may tend to that effect. With respect to their Government, we are under no call to express opinions which might please or offend any party, and therefore it will be best to avoid them on all occasions, public or private. Could any circumstances require unavoidably such expressions, they would naturally be in conformity with the sentiments of the great mass of our countrymen, who having first, in modern times, taken the ground of Government founded on the will of the

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people, cannot but be delighted on seeing so distinguished and so esteemed a Nation arrive on the same ground, and plant their standard by our side.

I feel myself particularly bound to recommend, as the most important of your charges, the patronage of our Commerce and the extension of it's privileges, both in France and her Colonies but most especially the latter. Our Consuls in France are under general instructions to correspond with the Minister of the United States at Paris; from them you may often receive interesting information. Joseph Fenwick is Consul at Bordeaux and Burwell Carnes at Nantz; M de la Motte Vice Consul at Havre and M Cathalan fils at Marseilles.

An act of Congress of July 1st, 1790, has limited the allowance of a Minister plenipotentiary to 9000 dollars a year *for all his personal services and other expences*, a year's salary for his outfit, and a quarter's salary for his return. It is understood that *the personal services and other expences* here meant, do not extend to the cost of gazettes and pamphlets transmitted to the Secretary of State's Office, to translating or printing necessary papers, postage, couriers, and necessary aids to poor American sailors. These additional charges therefore may be inserted in your accounts; but no other of any description, unless where they are expressly directed to be incurred. By an ancient rule of Congress, your salary will commence from the day you receive this Letter, if you be then at Paris, or from the day you set out for Paris from any other place at which it may find you; it ceases on receiving notice or permission to return,

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after which the additional quarter's allowance takes place. You are free to name your own private Secretary, who will receive from the public a salary of 1350 dollars a year, without allowance for any *extras*. I have thought it best to state these things to you minutely, that you may be relieved from all doubt as to the matter of your accounts. I will beg leave to add a most earnest request, that on the 1st day of July next and on the same day annually afterwards, you make out your account to that day, and send it by the first vessel and by duplicates. In this I must be very urgent and particular, because at the meeting of the ensuing Congress always it is expected that I prepare for them a statement of the disbursements from this fund from July to June inclusive. I shall give orders by the first opportunity to our Bankers in Amsterdam to answer your drafts for the allowances herein before mentioned, recruiting them at the same time by an adequate remitment, as I expect that by the time you receive this they will not have remaining on hand of this fund more than 7. or 8000 dollars.

You shall receive from me from time to time the laws and journals of Congress, gazettes and other interesting papers; for whatever information is in possession of the public I shall leave you generally to the gazettes, and only undertake to communicate by letter such, relative to the business of your mission, as the gazettes cannot give.

From you I shall ask, once or twice a month regularly, a communication of interesting occurrences in France, of the general affairs of Europe, and a

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transmission of the Leyden gazette, the *Journal logographe*, and the best paper of Paris for their Colonial affairs, with such other publications as may be important enough to be read by one who can spare little time to read anything, or which may contain matter proper to be turned to on interesting subjects and occasions. The English packet is the most certain channel for such epistolary communications as are not very secret, and by those packets I would wish always to receive a letter from you by way of corrective to the farrago of news they generally bring. Intermediate letters, secret communications, gazettes and other printed papers, had better come through the channel of M de la Motte at Havre, to whom I shall also generally address my letters to you, and always the gazettes and other printed papers.

Mr. Short will receive by the same conveyance, his appointment as Minister resident at the Hague.

DRAFT OF A LETTER FROM THE PRESIDENT TO THE SECRETARY OF WAR[1] J. MSS.

[Jan 25, 1792.]

SIR,—As the circumstances which has engaged the U. S. in the present Indian war, may some of them be out of the public recollection, & others perhaps be unknown, I shall be glad if you will prepare &

[1] Jefferson sent this to Washington, with a note:

"Jan. 25, 1792.

"Th: Jefferson presents his respects to the President of the U. S. and subjoins what he supposes might form a proper introduction to the statement prepared by the Secretary at War. The occasion is so new,

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publish from authentic documents, a statement of these circumstances, as well as of the measures which have been taken from time to time for the establishment of peace & friendship.

When our constituents are called on for considerable exertions to relieve a part of their fellow-citizens suffering under the hand of an enemy, it is desireable for those interested with the administration of their affairs to communicate without reserve what they have done to ward off the evil.

TO THE SPANISH COMMISSIONERS S. P.

(JOSEPH JAUDENES, AND JOSEPH VIAR)

PHILADELPHIA Jan 25, 1792.

GENTLEMEN,—Don Joseph Jaudenes having communicated to me verbally that his Catholic majesty had been apprised of our sollicitude to have some

that however short the letter proposed, he has no doubt it will need correction both as to the matter & manner."

Washington submitted the draft to Hamilton, who commented as follows:

"Mr. Hamilton presents his respects to the President & submits the following Alterations in the letter—

"Instead of 'I shall be glad' to say 'it is my desire' or 'it appears advisable' that you prepare &c.

"Instead of 'when our *Constituents* &c.' say 'When the Community are called upon for considerable exertions, to relieve a part, which is suffering under the hand of an enemy, it is desirable to manifest that due pains have been taken by those entrusted with the administration of their Affairs to avoid the evil.'

"It is a doubt whether *our Constituents* be a proper phrase to be used by the President in addressing a subordinate officer."

A written copy of the paper (D. S. MSS.) has all these changes embodied, written in pencil in Washington's handwriting.

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arrangements made respecting our free navigation of the Missisipi, & a port thereon convenient for the deposit of merchandize of export & import for lading & unlading the sea and river vessels, and that his majesty would be ready to enter into treaty thereon directly with us, whensoever we should send to Madrid a proper & acceptable person authorized to treat on our part, I laid the communication before the President of the United States. I am authorized by him to assure you that our government has nothing more at heart than to meet the friendly advances of his Catholic majesty with cordiality, and to concur in such arrangements on the subject proposed, as may tend best to secure peace and friendship between the two nations on a permanent footing. The President has therefore, with the approbation of the Senate, appointed Mr. Short, our present Minister resident at the Hague, to proceed to Madrid as a joint Commissioner with Mr. Carmichael, with full powers to treat on the subject before mentioned, and I have no doubt that these gentlemen will so conduct themselves as to give entire satisfaction. Mr. Short's business at the Hague will occasion a short delay of his departure from that place, for Madrid, but he will be duly urged to make it as short as possible.

TO THE SPANISH COMMISSIONERS J. MSS.

(JOSEPH JAUDENES AND JOSEPH VIAR)

PHILADELPHIA Jan 26, 1792.

GENTLEMEN,—By your letter of yesterday evening in answer to mine of the morning, I perceive that

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Don Joseph Jaudenes's communication verbally had not been understood in the same way by him & myself. How this has happened I cannot conceive. Monsr. de Jaudenes will do me the justice to recollect that when he had made the verbal communication to me I asked his permission to commit it to writing. I did so, read it to him, corrected a phrase or two at his desire to render it exact to his expression, read it to him again, & he approved it. I inclose you a verbal copy of it, being the one dated Dec. 6. This I laid before the President, & it was the basis of our subsequent proceedings. On the 27th of Dec. Don Joseph de Jaudenes, at the city tavern, spoke to me again on the same subject. When I came home in the evening I committed to writing the substance of what he had said, as far as my memory enabled me.

I send you a copy under the date of Dec. 27. but for the exactness of this I cannot undertake with as much certainty as the first. Accordingly you will find my letter of yesterday morning strictly conformable to the note of the first communication. Thus much has been said for my own justification. It remains now that the error be corrected, and that I may set out again on sure ground, I must ask the favor of you to give me in writing the communication intended to be made. Whatever it be, you may be assured that our dispositions to preserve friendship & perfect understanding with his Catholic majesty, as well as to render the exercise of your functions here as pleasing to yourselves as possible, will induce us to receive with great partiality the intimations of your court, and to proceed on them

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accordingly. I shall suspend doing any thing more on this subject till you favor me with your answer.[1]

TO THE PRESIDENT OF THE UNITED STATES J. MSS.

Jan 28, 1792.

Th: Jefferson presents his respects to the President and returns him the draught of the letter with proofs of his confidence in the indulgence of the President, having freely used the liberty he gave him in softening some expressions lest they should be too much felt by Mr. Morris. The changes are made with a pencil only, and can therefore be easily restored where disapproved.[2]

TO WILLIAM SHORT J. MSS.

PHILADELPHIA, January 28th, 1792.

The present will be very confidential, and will go I do not know how, as I can not take time to cypher it all. What has lately occurred here will convince you that I have been right in not raising your expectations as to an appointment. The President proposed at first the nomination of Mr. T. Pinckney to the Court of London, but would not name him till we could have an assurance from him that he would accept; nor did he indicate what the other appointments would be till Mr. P's answer came. Then he nominated to the Senate Mr. Morris, M. P. for

[1] See *ante*, pp. 342, 356.

[2] This refers to Washington's private letter to Morris of Jan. 28, 1792, printed in Ford's *Writings of Washington*, XII., 96.

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France, Pinckney, M. P., for London, and yourself, M. R., for the Hague. The first of these appointments was so extremely unpopular, and so little relished by several of the Senate, that every effort was used to negative it. Those whose personal objections to Mr. Morris over weighed their deference to the President, finding themselves in the minority, joined with another small party who were against all foreign appointments, and endeavored with them to put down the whole system rather than let this article pass. This plan was defeated, and Mr. Morris passed by vote of 16 against 11. When your nomination came on it was consented to by 15 against 11; every man of the latter, however, rising and declaring as to yourself they had no personal objection, but only meant by their vote to declare their opinion against keeping any person at the Hague. Those who voted in the negative, were not exactly the same in both cases. When the biannual bill, furnishing money for the support of the foreign establishments shall come on at the next session, to be continued, the same contest will arise again, and I think it very possible that, if the opponents of Mr. M. can not remove him otherwise, they will join again with those who are against the whole establishment, and try to discontinue the whole. If they fail in this, I still see no security in their continuing the mission to the Hague, because to do this they must enlarge the fund from $40,000 to $50,000. The President afterward proceeded to join you to Carmichael on a special mission to Spain, to which their was no opposition except from three gentlemen who

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were against opening the Mississippi. *I told the President that, as I expected the Hague mission would be discontinued after the next session, I should advise you to ask permission to return. He told me not to do this, for that as Carmichael had asked leave to return, and he meant to give it as soon as he should get thro' the business jointly confided to you, and to appoint you his successor as Minister Resident. Therefore do in this what you chuse; only inform me of your wishes, that I may co-operate with them, and taking into consideration the determination I have unalterably fixed for retiring from my office at the close of our first Federal cycle, which will be first of March, 1793. All this is confided sacredly to your secrecy, being known to no living mortal but the President, Madison, and yourself.*[1]

PLAN OF POSTS J. MSS.

[Feb. 1792]

It is proposed that there shall be one post a week passing along the main post road from North to South, at the rate of 100 miles a day. All intermediate post & all cross posts to remain as at present, unless it should be thought well to put the post towards Kentuckey, as far as practicable, on the quick establishment.

Let this road be divided into stages of 25 miles each, as nearly as may be, and let there be a postman to each stage. For some stages from the seat of government & the great towns, a light cart drawn

[1] Italic in cipher translation.

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by two horses, as used in Europe, will probably be found necessary, after which we may expect a horse & portmenteau will suffice. Let the hours for post riding be from 3. oclock in the morning to 11 oclock at night, which gives 20. hours, allowing to every rider 5 hours to perform his stage of 25. miles. If he rides at the rate of 6. miles an hour, he will have near an hour for crossing ferries, other delays & accidents.—There may be a saving near the seat of government by sending the postman & his mail by the stages to Baltimore & New York, when that is performed by the stages in one day.

Let every rider take a way bill from the postmaster of the stage he leaves, expressing the day, hour & minute of his departure, and have entered on the same bill by the postmaster at the next stage, the hour & minute of his arrival, & let the way-bill be returned by the same post to the postmaster general at the seat of government, that delays may be traced by him whenever any circumstance shall call for it.

TO THE BRITISH MINISTER J. MSS.

(GEORGE HAMMOND)

PHILADELPHIA February 2d, 1792.

SIR,—On the receipt of your letter of the 14th of December I communicated it to the President of the United States, and under the sanction of his authority the principal members of the executive department made it their duty to make known in conversations, generally, the explicit disclaimer, in the name of

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your court, which you had been pleased to give us, that the Government of Canada had supported or encouraged the hostilities of our indian neighbours in the western country. Your favor of January the 30th. to the same purpose has been in like manner communicated to the President, and I am authorized to assure you, that he is duly sensible of this additional proof of the disposition of the court of London to confine the proceedings of their officers in our vicinage within the limits of friendship and good neighbourhood, and that a conduct so friendly and just will furnish us a motive the more for those duties and good offices which neighbour nations owe each other.

You have seen too much, Sir, of the conduct of the press in countries where it is free, to consider the gazettes as evidence of the sentiments of any part of the government: you have seen them bestow on the government itself, in all it's parts it's full share of inculpation. Of the sentiments of our government on the subject of your letter, I cannot give you better evidence than the statement of the causes of the indian war, made by the Secretary of War on the 26th of the last month, by order of the President, and inserted in the public papers. No interference on the part of your nation is therein stated among the causes of the war. I am happy however in the hope, that a due execution of the treaty will shortly silence those expressions of public feeling by removing their cause, and I have the honor to be with great respect and esteem Sir Your most obedient & most humble servant.

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TO THE PRESIDENT OF THE UNITED STATES

J. MSS.

PHILADELPHIA, February 4th, 1792.

SIR,—The late appointment of a Minister Resident to the Hague, has brought under consideration the condition of Mr. Dumas, and the question whether he is, or is not, at present in the service of the U. S.?

Mr. Dumas, very early in the war, was employed first by Dr. Franklin, afterwards by Mr. Adams, to transact the affairs of the U. S. in Holland. Congress never passed any express vote of confirmation, but they opened a direct correspondence with Mr. Dumas, sent him orders to be executed, confirmed and augmented his salary, made that augmentation retrospective, directed him to take up his residence in their hotel at the Hague, and passed such other votes from time to time as established him *de facto* their Agent at the Hague. On the change in the organization of our government in 1789, no commission nor new appointment took place with respect to him, tho' it did in most other cases; yet the correspondence with him from the Office of foreign affairs has been continued, and he has regularly received his salary. A doubt has been suggested whether this be legal? I have myself no doubt but that it is legal. I consider the source of authority with us to be the Nation.—Their will declared through its proper organ, is valid, till revoked by their will declared through it's proper organ again also. Between 1776 & 1789 the proper organ for pronouncing their will, whether legislative or executive, was a Congress formed in a particular manner.

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Since 1789 it is a Congress formed in a different manner for laws, and a President, elected in a particular way, for making appointments & doing other Executive acts. The laws and appointments of the antient Congress were as valid & permanent in their nature, as the laws of the new Congress, or appointments of the new Executive; these laws & appointments in both cases deriving equally their source from the will of the Nation; and when a question arises, whether any particular law or appointment is still in force? we are to examine, not whether it was pronounced by the antient or present organ, but whether it has been at any time revoked by the authority of the Nation expressed by the organ competent at the time. The Nation by the act of their federal convention, established some new principles & some new organizations of the government. This was a valid declaration of their will, and *ipso facto* revoked some laws before passed, and discontinued some offices & officers before appointed. Wherever by this instrument, an old office was suspended by a new one, a new appointment became necessary; but where the new Constitution did not demolish an office, either expressly or virtually, nor the President remove the officer, both the office and officer remained. This was the case of several: in many of them indeed an excess of caution dictated the superaddition of a new appointment; but where there was no such superaddition, as in the instance of Mr. Dumas, both the office and officer still remained: for the will of the nation, validly pronounced by the proper organ of the day, had constituted him their agent, and that

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will has not through any of it's successive organs revoked its appointment. I think, therefore, there is no room to doubt it's continuance, and that the receipt of salary by him has been lawful.

However I would not wish to take on myself alone the decision of a question so important, whether considered in a legal or constitutional view; and therefore submit it to you, Sir, whether it is not a proper question whereon to take the opinion of the Attorney General?

Another question then arises. Ought Mr. Dumas to be discontinued?

I am of opinion he ought not.

1. Not at this time; because Mr. Short's mission to Madrid will occasion an immediate vacancy at the Hague again; and because by the time that will be over, his appointment at the Hague must be discontinued altogether, unless Congress should enlarge the foreign fund.

2. Not at any time; because when, after the peace, Mr. Dumas's agency became of less importance, Congress under various views of his sacrifices & services, manifested that their continuance of him was in consideration of these, and of his advanced years & infirm state, which render it impossible for him to launch into a new line of gaining a livelihood; and they thought the continuance of moderate competence to him for moderate services, was more honorable to the U. S. than to abandon him, in the face of Europe, after & under such circumstances.

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TO THE PRESIDENT OF THE UNITED STATES J. MSS.

PHILADELPHIA February 7th, 1792.

SIR,—An account presented to me by Mr. John B. Cutting, for expenditures incurred by him in liberating the seamen of the United States in British ports during the impressments which took place under that government in the year 1790, obliges me to recall some former transactions to your mind.

You will be pleased to recollect the numerous instances of complaint or information to us, about that time, of the violences committed on our seafaring citizens in British ports by their press-gangs and officers; and that not having even a Consul there at that time, it was thought fortunate that a private citizen, who happened to be on the spot, stept forward for their protection; that it was obvious that these exertions on his part must be attended with expence, and that a particular demand of £50 sterling for this purpose coming incidentally to my knowledge, it was immediately remitted to Mr. Cutting, with a request to account for it in convenient time. He now presents an account of all his expenditures in this business, which I have the honor to communicate herewith. According to this the oppression extends to a much greater number of our citizens, & their relief is more costly than had been contemplated. It will be necessary to lay the account before the legislature; because the expenditures being of a description which had not occurred before, no appropriation heretofore made would

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authorize payment at the treasury; because too the nature of the transactions may in some instances require justly, that the ordinary rules of evidence which the auditor is bound to apply to ordinary cases, should suffer relaxations, which he probably will not think himself authorized to admit, without the orders of the legislature.

The practice in Great Britain of impressing seamen whenever War is apprehended, will fall more heavily on ours, than on those of any other foreign nation, on account of the sameness of language. Our minister at that court therefore will on these occasions, be under the necessity of interfering for their protection, in a way which will call for expence. It is desireable that these expences should be reduced to certain rules, as far as the nature of the case will admit, and the sooner they are so reduced the better. This may be done however on surer grounds after the government of Great Britain shall have entered with us into those arrangements on this particular subject, which the seriousness of the case calls for on our part, and it's difficulty may admit on theirs. This done, it will be desirable that legislative rules be framed which may equally guide and justify the proceedings of our Minister, or other agent, at that court, and at the same time extend to our seafaring citizens, the protection of which they have so much need.

Mr. Cutting, being on the spot, will himself furnish the explanations and documents of his case, either to the legislature, or a committee of it, or to the Auditor, as he shall be required.

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TO THE PRESIDENT OF THE UNITED STATES

D. S. MSS.

Mar. 2, 1792.

Th: Jefferson presents his respectful compliments to the President and returns him the letter of Gen! St Clair. He finds nothing in it about which he has any doubt except the following passage. "Nor do I see from any information in my possession that your exertions were wanting for any *preparatory* measures *previous to the action*, nor in *the time of the action*."

Th: J. never had a statement of the matter himself from Gen! St Clair in conversation, but he has heard from those who have, that it appears from his own account that he was so confident he should not meet an enemy, that he did not take sufficient precautions to be advised of one previous to the action, & his manner of conducting the action itself has been generally censured; if these criticisms be founded, the only question is whether the above expressions will be so understood as to be exposed to them.

Th: J. does not pretend to judge of the facts, and perhaps the expressions may bear another meaning.[1]

[1] The above is verbatim, as nearly as I can recollect, the diction of a note I wrote to the President this morning, & I forgot to take a copy of it before it went out of my hands. But I think there will be found scarcely a word of difference, except perhaps in the quotation, the substance of which alone can be answered for. *T. J.*

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REPORT ON MATTERS OF NEGOTIATION WITH SPAIN [1]

D. S. MSS.

[Mar 7 1792]

The Secretary of State having understood from communications with the Commissioners of his Catholic Majesty, subsequent to that which he reported to the President on the 22d of December last, that though they considered the navigation of the Mississippi as the principal object of negociation between the two countries, yet it was expected by their Court that the conferences would extend to all the matters which were under negociation on the former occasion with Mr. Gardoqui, and particularly to some arrangements of commerce— is of opinion that to renew the conferences on this subject also, since they desire it, will be but friendly and respectful, & can lead to nothing without our own consent, and that to refuse it, might obstruct the settlement of the questions of navigation and boundary: and therefore Reports:

To the President of the United States, the following:

Observations and Instructions to the Commissioners of the United States, appointed to negociate

[1] This is the copy submitted to the President, the perfected paper being printed under March 18, 1792. Jefferson submitted a rough draft of this to Hamilton, for suggestion, previously to sending it to the President, some time before March 5, and Hamilton made the following notes upon it, on which Jefferson commented as indicated:

Notes by A. Hamilton on T. J's Report of instructions for the Commissioners to treat at Madrid.	*Answers by Th. J.*
The general tenor of the report appears solid & proper. The following observations however, on hasty perusal, occur.	
Page 2d. Is it to put our resolution on the *true*, or the best	The report is amended in conformity with this observation.

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with the Court of Spain a treaty or convention relative to the navigation of the Missisippi; which observations and instructions he is of opinion should be laid before the Senate of the United States, and

footing to say that the circumstances which obliged us to *discontinue* our foreign magistrate, *brought upon us the war*? Did not the war previously exist & bring on the *discontinuance*? Was it not rather the *cause* than the *effect*?

Is it accurate to say that France aided us in capturing the whole Army of the enemy? Does this not imply, that there was no other enemy army in the country, though there were in fact two others, one in New York, another in S. Carolina? This last is a mere criticism as to the occurrences of expression. The sense is clear enough.

The capture of the Army struck out.

Page 11. Are 'naval victories' the essential mean of conquest of a *water* as seems to be implied? Is not the conquest of a *water* an incident to that territory? If this idea is not sound, that combined with it is, namely, that in no event could Spain be considered as having *conquered the river against* the U. S. with whom she not only had no war but was an associate.

No conquest of the territory was made to it of the islands of N. Orleans on the one side or Louisiana on the other, as both had belonged to Spain before the war, therefore no change in the right to the water as incident to the territory. This circumstance however is inserted in the report to make the reasoning the clearer.

Page 12. May it not be inferred from what is said here that though the U. S. would not *wish* to *insert* or express stipulation against other nations, yet they may be prevailed on to do it? Would such a stipulation be consistent with the right which Gr. Britain reserved to herself in the treaty

The word *chuse* substituted for *wish*. However England could hold that right of commerce in the water only as incident to Florida which she then held. When she conveyed Florida to Spain the incident passed by the same conveyance, and she can never have a claim against us or a stipulation,

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their decision be desired, whether they will advise and consent that a treaty be entered into by the Commissioners of the United States with Spain conformable thereto.

with us? If the inference alluded to is intended to be excluded, will it not be advisable to vary the term of expression so as to render the intention more unequivocal?

Page 23. Are there *conclusive* reasons to make it a *sine qua non* that no phrase shall be admitted which shall express or *imply* a grant? Could the negociation with propriety be broken off on such a point? Is it not rather one to be endeavored to be avoided, than the avoiding of it to be made a sine qua non?

Page 25. Is it true that the U. S. have no right to *alienate an inch* of the territory in question, except in the case of necessity intimated in another place? Or will it be useful to avow the denial of such a right? It is apprehended that the doctrine which restricts the alienation of territory to cases of *extreme necessity*, is applicable rather to *peopled* territory, than to waste & uninhabited districts. Positions restraining the right of the U. States to accomodate to exigencies which may arise, ought ever to be advanced with great caution.

the benefit of which she had conveyed to another.

Report altered in conformity to this.

The power to alienate the *unpeopled* territories of any state, is not among the enumerated powers given by the constitution to the general government, & if we may go out of that instrument & *acomodate to exigencies which may arise* by alienating the *unpeopled* territory of a state, we may accomodate ourselves a little more by alienating that which is *peopled*, & still a little more by selling the *people* themselves. A shade or two more in the degree of exigency is all that will be requisite, and of that degree we shall ourselves be the judges.—However, may it not be hoped that these questions are forever laid to rest by the 12th Amendment once made a part of the Constitution, declaring expressly that "the powers not delegated to the U. S. by the Constitution are reserved

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After stating to our Commissioners the foundation of our rights to navigate the Missisippi, & to hold our Southern boundary at the 31st degree of latitude, and that each of these is to be a *sine qua non*, it is proposed to add as follows:

On the former conferences on the navigation of

to the States respectively"? And if the general government has no power to alienate the territory of a State, it is too irresistable an argument, to deny ourselves the use of it on the present occasion.

Page 28. Is it true that the stipulation with France respecting the reception of prises is *exclusive & incommunicable*? It is doubtless so as against France, but why is it so as against other nations? It is however a stipulation very inconvenient & even dangerous to the U. S. & one which ought by all means to be excluded.

It is certainly impossible for any nation to have stipulation of this kind & extent with two others at the same time. However he can judge if the Report is made more correct & conformable to the words of the French treaty.

Will it not be necessary to add an instruction that the usual stipulation respecting the ratification of the treaty of the U. S. be varied so as to be adapted to the participation of the Senate?

It seems sufficient to stipulate that the treaty shall be ratified, without saying by what body, or by what individuals it is to be. An instruction however is inserted to allow 16 months for the exchange of ratificns.

Last page, the words "nor in assentive to their rights," have a pencil line drawn thro' them. 'Tis certainly best to obliterate them. The less commitment the better.

This had been decided before.

In addition Hamilton wrote on the same sheets, the following note (omitted in both editions of Hamilton's *Writings*):

"Though a treaty of commerce like that contemplated in the Report ought not to be rejected, if *desired* by Spain, & coupled with a *satisfactory* adjustment of the *boundary & navigation*, yet ought not something more to be *attempted*, if it were only to give satisfaction to other

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the Missisippi, Spain choose to blend with it the subject of commerce; and accordingly specific propositions thereon passed between the negociators. Her object then was to obtain our renunciation of the navigation, and to hold out commercial arrangements, perhaps as a lure to us. Perhaps however she might then, & may now really set a value on commercial arrangements with us, and may receive them as a consideration for accommodating us in the navigation, or may wish for them to have the appearance of receiving a consideration. Commercial arrangements, if acceptable in themselves, will not be the less so if coupled with those relating to navigation & boundary. We have only to take care that they be acceptable in themselves.

There are two principles which may be proposed as the basis of a commercial treaty, 1st that of

parts of the union? Some positive *favourable stipulations* respecting our grain, flour, & fish, even in the European dominions of Spain, would be of great consequence, & would justify reciprocal advantages to some of her commodities (say wines & brandies)."

To this Jefferson replied by letter, as follows:

"Mar 5, 1792.

"Th: Jefferson will be glad if the Secretary of the Treasury will state the specific propositions he would have made to Spain, on the subject of our fish, grain, & flour; to wit what he would ask, & what propose as an equivalent. The following considerations will of course occur to him.

1st. If we quit the ground *of the most favored nation*, as to certain articles for our convenience, Spain may insist on doing the same for other articles for her convenience, and I apprehend that our Commissioners might soon be out of their depth in the details of commerce.

2nd. If we grant favor to the wines of Spain; Portugal & France will demand the same, & may create the equivalent, the former by laying duties on our fish & grain, the latter by a prohibition of our whale oils; the removal of which will be proposed as the equivalent."

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exchanging the privileges of native citizens, or 2d those of the most favoured nation.

1st. With the nations holding important possessions in America, we are ready to exchange the rights of native citizens, provided they be extended through the whole possessions of both parties; but the propositions of Spain made on the former occasion (a copy of which accompanies this) were, that we should give their merchants, vessels and productions the privileges of native merchants, vessels & productions, thro' the whole of our possessions, and they give the same to our's only in Spain & the Canaries. This is inadmissible, because unequal; and as we believe that Spain is not ripe for an equal exchange on this basis, we avoid proposing it.

2d. Though treaties which merely exchange the rights of the most favoured nations are not without all inconvenience, yet they have their conveniences also. It is an important one that they leave each party free to make what internal regulations they please, and to give what preferences they find expedient to native merchants, vessels & productions. And as we already have treaties on this basis with France, Holland, Sweden & Prussia, the two former of which are perpetual, it will be but small additional embarrassment to extend it to Spain.—On the contrary we are sensible it is right to place that nation on the most favoured footing, whether we have a treaty with them or not, & it can do us no harm to secure by treaty a reciprocation of the right.

Of the four treaties before mentioned, either the French or the Prussian might be taken as a model;

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but it would be useless to propose the Prussian, because we have already supposed that Spain would never consent to those articles which give to each party access to all the dominions of the other; and without this equivalent, we would not agree to tie our own hands so materially in war as would be done by the 23d article, which renounces the right of fitting out privateers, or of capturing merchant vessels. The French treaty therefore is proposed as the model. In this however, the following changes are to be made.

We should be admitted to all the dominions of Spain to which any other foreign nation is, or may be admitted.—

Art. 5 being an exemption from a particular duty in France, will of course be omitted as inapplicable to Spain.—

Art. 8: to be omitted as unnecessary with Morocco, and inefficacious & little honorable with any of the Barbary powers; but it may furnish occasion to sound Spain on the project of a convention of the powers at war with the Barbary states, to keep up by rotation, a constant cruise of a given force on their coasts, 'till they shall be compelled to renounce forever, and against all nations, their predatory practices. Perhaps the infidelities of the Algerines to their treaty of peace with Spain, tho' the latter does not chuse to break openly, may induce her to subsidize *us* to cruise against them with a given force.—

Art: 9 & 10. Concerning fisheries to be omitted as inapplicable.

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Art: 11. The first paragraph of this article respecting the Droit d'Aubaine to be omitted, that law being supposed peculiar to France.

Art: 17. Giving asylum in the ports of either to the armed vessels of the other with the prizes taken from the enemies of that other, must be qualified as it is in the 19th article of the Prussian treaty, as the stipulation in the latter part of the article "that no shelter or refuge shall be given in the ports of the one to such as shall have made prize on the subjects of the other of the parties," would forbid us in case of a war between France & Spain, to give shelter in our ports to prizes made by the latter on the former, while the first part of the article would oblige us to shelter those made by the former on the latter: a very dangerous covenant, and which ought never to be repeated in any other instance.

Art: 29. Consent should be received at all the ports at which the vessels of either party may be received.

Art: 30. Concerning free ports in Europe & America. Free ports in the Spanish possessions in America, & particularly at the Havanna, are more to be desired than expected. It can therefore only be recommended to the best endeavours of the Commissioners to obtain them. It will be something to obtain for our vessels, flour, &c. admission to those ports during their pleasure. In like manner if they could be prevailed on to re-establish our right of cutting log wood in the bay of Campeachy, on the footing on which it stood before the treaty of 1763, it would be desireable, and not endanger to us any

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contest with the English, who by the revolution treaty are restrained to the South Eastern parts of Yucatan.

Art: 31. The *act* of ratification on our part may require a twelve-month from the date of the treaty, as the Senate meets regularly but once a year, and to return it to Madrid for *exchange* may require four months more.

The treaty must not exceed years duration, except the clauses relating to boundary & the navigation of the Missisippi, —which must be perpetual & final. Indeed these two subjects had better be in a separate instrument.

There might have been mentioned a third species of arrangement, that of making special agreements on every special subject of commerce, and of settling a tariff to be paid, on each side, on every particular article; but this would require in our Commissioners a very minute knowledge of our commerce, as it is impossible to foresee every proposition of this kind which might be brought into discussion, and to prepare them for it by information & instruction from hence. Our commerce too is as yet rather in a course of experiment, and the channels in which it will ultimately flow are not sufficiently known to enable us to provide for it by special agreement; nor have the exigencies of our new government as yet so far developed themselves, as that we can know to what degree we may or must have recourse to commerce, for the purposes of revenue. No common consideration therefore ought to induce us as yet to arrangements of this kind. Perhaps nothing should

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do it, with any nation, short of the privileges of natives in all their possessions, foreign and domestic.

It were to be wished indeed that some positively favourable stipulations respecting our grain, flour, & fish could be obtained, even on our giving reciprocal advantages to some of the commodities of Spain, say her wines & brandies. But

1st. If we quit the ground of the *most favoured nation* as to certain articles for our convenience, Spain may insist on doing the same for other articles for her convenience, and thus our commissioners will get themselves on the ground of a *treaty of detail*, for which they will not be prepared.

2d. If we grant favour to the wines & brandies of Spain, then Portugal & France will demand the same; and in order to create an equivalent, Portugal may lay a duty on our fish & grain, and France a prohibition on our whale oil, the removal of which will be proposed as an equivalent.

Thus much however as to grain & flour may be attempted. There has not long since been a considerable duty laid on them in Spain. This was while a treaty on the subject of commerce was pending between us and Spain, as that court considers the matter. It is not generally thought right to change the state of things pending a treaty concerning them. On this consideration, and on the motive of cultivating our friendship, perhaps the Commissioners may induce them to restore this commodity to the footing on which it was on opening the conferences with Mr. Gardoqui on the 26th day of July 1785. If Spain says, "do the same by your tonnage

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on our vessels," the answer may be, "that our foreign tonnage affects Spain very little, and other nations very much, whereas the duty on flour in Spain affects us very much, and other nations very little; consequently there would be no equality in reciprocal relinquishment, as there had been none in the reciprocal innovation; and Spain by insisting on this, would in fact only be aiding the interests of her rival nations, to whom we should be forced to extend the same indulgence."

At the time of opening the conferences too, we had as yet not erected any system. Our government itself being not yet erected; innovation then was unavoidable on our part, if it be innovation to establish a system: We did it on fair & general ground, on ground favorable to Spain; but they had a system, and therefore innovation was avoidable on their part.

TO THE MINISTER TO FRANCE

(GOUVERNEUR MORRIS)

PHILADELPHIA Mar. 10, 1792.

DEAR SIR,—My letter of Jan. 23. put under cover to Mr. Johnson in London & sent by a passenger in the British packet of February will have conveyed to you your appointment as Min. Plen. to the U. S. at the court of France. By the *Pennsylvania*, Capt. Harding, bound to Havre de Grace, & plying pretty regularly between this place & that, you will receive the present letter, with the laws of the U. S. journals of Congress, & gazettes to this day, addressed to the

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care of M. de la Motte. You will also receive a letter from the President to the King of France in answer to his announcing the acceptance of the constitution, which came to hand only a week ago. A copy of this letter is sent for your own use. You will be pleased to deliver the sealed one (to the Minister I presume according to the antient etiquette of the court) accompanying it with the assurances of friendship which the occasion may permit you to express, and which are cordially felt by the President & the great body of our nation. We wish no occasion to be omitted of impressing the national assembly with this truth. We had expected ere this, that in consequence of the recommendation of their predecessors, some overtures would have been made to us on the subject of a treaty of commerce. An authentic copy of the recommendation was delivered, but nothing said about carrying it into effect. Perhaps they expect that we should declare our readiness to meet them on the ground of treaty. If they do, we have no hesitation to declare it. In the mean time, if the present communications produce any sensation, perhaps it may furnish a good occasion to endeavour to have matters replaced *in statu quo*, by repealing the late innovations as to our ships, tobo. & whale oil. It is right that things should be on their antient footing, at opening the treaty.—M. Ternant has applied here for 400,000 dollars for the succour of the French colonies. The Secretary of the Treasury has reason to believe that the late loan at Antwerp has paid up all our arrearages to France both of principal & interest, & consequently that

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there is no part of our debt exigible at this time. However the legislature having authorized the President to proceed in borrowing to pay off the residue, provided it can be done to the *advantage* of the U. S. it is thought the law will be satisfied with *avoiding loss* to the U. S. This has obliged the Secretary of the Treasury to require some conditions which may remove from us that loss which we encountered, from an unfavorable exchange, to pay what was *exigible*, and transfer it to France as to payments not exigible. These shall be fully detailed to you when settled. In the meantime the money will be furnished as far as it can be done. Indeed our wishes are cordial for the reestablishment of peace & commerce in those colonies, and to give such proofs of our good faith both to them & the mother country, as to suppress all that jealousy which might oppose itself to the free exchange of our *mutual productions*, so essential to the prosperity of those colonies and to the preservation of *our Agricultural* interest. This is our true interest & our true object, and we have no reason to conceal views so justifiable, tho' the expression of them may require that the occasions be proper & the terms chosen with delicacy.—The gazettes will inform you of the proceedings of Congress, the laws passed & proposed, & generally speaking of all public transactions. You will perceive that the Indian war calls for sensible exertions. It would have been a trifle had we only avowed enemies to contend with. The British court have disavowed all aid to the Indians. Whatever may have been their orders in that direction, the Indians

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are fully & notoriously supplied by their agents with everything necessary to carry on the war.—Time will shew how all this is to end.—Besides the laws, journals & newspapers before mentioned, you will receive herewith the State Constitutions, the Census, an almanac, and an answer to Ld. Sheffield on our commerce. A cypher is ready for you, but cannot be sent till we can find a trusty passenger going to Paris.

NOTES ON COMMERCIAL POLICY TOWARDS GREAT BRITAIN

[Mar. 12? 1792.]

Two facts affirmed. viz

1 yt we have not capital enough for commerce
2 that the capitals of persons resid^{s} in Britain necessary
  1 Perhaps true
    But not so much necessary as may be imag^{d}
    Commerce may be overstrained
    Phila. N. Y. Boston very wealthy
    But be it so. I am not prepared to deny so I will adm^{t} y're may be such an opn
  2 British capitals are necessary
    Not more so than Dutch & French
    The latter will come in if made their int.

What are the remedies to this embarrassmt?

I The S. of T. proposes
1. to subm^{t} with resignn without any oppos'n
2. in mean time raise manufactures

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1 other passions besides averice—resentm[t]
Man disposed to sacrifice much of his other passions to resentment
Our countrymen sh[d] do so for commerce
2 the Eng will keep the start y have in manuf
Stern chase is a long chase
II My proposns
1 to prevent diversion of our own capital
2 to induce British capitalist to transport himself here with his capital—viz
embarrassing his employment of it while he resides in Britain
There being no employment or less advgeous in Europe, induces him to employ here. Same cause will induce him to come here if necessary
3 the few that refuse to come will lend their money, or give credit for goods
This necessary for a short time only. We can soon do without this class of Brit. capitalists.

TO ARCHIBALD STUART [1]

PHILADELPHIA March 14. 1792.

DEAR SIR,—Your favor was rec[d] lately. It gave me pleasure to hear you were well and that yr. lady was so likewise as I presume to be the case from the chearful style in which it was expressed. The fate of the bill to which you allude has not even yet been

[1] From the original in the Virginia Historical Society.

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decided. The ground of the opposition has been founded on the discovery that the ratio of 30,000 gave smaller fractions to the southern than to the eastern states, and to prevent this a variety of propositions have been made, among which is the following now depending: To supply the ratio of 30,000 to the aggregate population of the union (not that of the individual states) which will give 120 members, & then apportion those members among the several states by as many different ratios as there are states, or to the population of each state giving them one for every 30,000 as far as it will go making 112 & then distribute the remaining 8 members among those states having the highest fractions of which five will be given to the states east of this. The bill was once lost by the adherence of the two houses and is now depending before the house of Rep. upon an amendment to this effect from the senate which passed by a majority of one vote only. The effect of this principle must be deemed a very pernicious one, and in my opinion subversion of that contained in the constitution, which in the 3rd paragraph of the 2nd sect: 1st article founds the representation on the population of each state, in terms as explicit as it could well have been done. Besides it takes the fractions of some states to supply the deficiency of others, & thus makes the people of Georgia the instrument of giving a member to N. Hampshire. What will be the fate of the bill is altogether incertain. On our part, the principle will never be yielded, for when such obvious encroachments are made on the plain meaning of the constitu-

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tion the bond of union ceases to be the equal measure of justice to all its parts. On theirs a very persevering firmness is likewise observed. They appear to me to play a hazardous game. The government secures them many important blessings, all those which it gives to us & many more, and yet with these they seem not to be satisfied. An act has passed for raising upon the regular establishment for the war 3000 additional troops and a corps of 300 more, making in the whole about five thousand men. To this I was opposed from a conviction they were useless and that 12, or 1500 woods men wo[d] soon end the war, and at a trifling expence. We had once carried a proposition to this effect by 1 vote in the Senate—but one of the members in favor of it afterwards shifted his ground and established the regular force. The foreign arrangements you have seen in the publick papers. Incident to these only one circumstance has perhaps not reached you: the opposition to that of Gov[r] Morris upon the following principles 1. His general character, being such that we would not confide in it. 2. His known attachment to monarchy & contempt of republican government & 3[d] his present employment abroad being a news vender of back lands & certificates. We took the yaes and naes on his appointment & 11 voted against it. This is submitted to yr discretion. The militia bill is still depending. I hope a bill will be past but that is questionable. Anything is preferable to nothing, as it takes away one of the arguments for a standing army. I shall not be able to attend the court this term, as I fear congress will not adjourn till the last

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of April. My brother will take charge of my business. As he is just commencing 'tis probable he will want assistance. May I request of you to give him every aid & countenance in your power. His prospects & those of his family depend on his profession: support therefore at present will be of lasting importance to him.

TO THOMAS MANN RANDOLPH J. MSS.

PHILADELPHIA, Mar. 16th. 1792.

DEAR SIR,—I here duly received your favor of the 22d of Feb. and thank you for the information it conveyed respecting my sale. The weather having been so long & severe has I imagine committed sad havoc on our stocks & the more so as it succeeded an unfavorable summer. Here the *unmonied farmer*, as he is termed, his cattle & corps are no more thought of than if they did not feed us. Scrip & stock are food & raiment here. Duer, the king of the alley, is under a sort of check. The stocksellers say he will rise again. The stock-buyers count him out, and the credit & fate of the nation seem to hang on the desperate throws & plunges of gambling scoundrels. The fate of the representation bill is still undecided. I look for our safety to the broad representation of the people which that shall bring forward. It will be more difficult for corrupt views to lay hold of so large a mass.

You will perceive by the papers that France is arming on her frontier. I do not apprehend that the

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emperor will meddle at all. Knowing that your post leaves Richmond on the Thursday or Friday, I shall change the day of my writing from Sunday to Thursday or Friday, so that you may have the papers fresher. I am now on a plan with the postmaster general to make the posts go from hence to Richmond in two days & a half instead of six, which I hope to persuade him is practicable. My love to my dear Martha.

TO JAMES MADISON MAD. MSS.

March 16, 1792.

I inclose you my thoughts on a subject extremely difficult, and one which I would thank you for any observations. The exchange of criminals is so difficult between a free & an arbitrary government, that England never would consent to make a convention with any state on the subject. It has accordingly been hitherto the asylum of all fugitives from the oppressions of other governments. The subject is forced on us by the importunities of Govr Pinkney, & in a day or two I must report on it to the President.

I will call for you a little before 4. to-day.

TO THE COMMISSIONERS TO SPAIN J. MSS.

(CARMICHAEL AND SHORT)

PHILADELPHIA Mar. 18, 1792.

GENTLEMEN,—The President having thought proper to appoint you joint Commissioners Plenipotentiary, on the part of the U. S. to treat with the Court

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of Madrid on the subjects of the navigation of the Missisipi, arrangements on our limits, & commerce, you will herewith receive your commission; as also Observations on these several subjects reported to the President & approved by him, which will therefore serve as instructions for you. These expressing minutely the sense of our government, & what they wish to have done, it is unnecessary for me to do more here than desire you to pursue these objects unremittingly, and endeavor to bring them to an issue in the course of the ensuing summer. It is desirable that you should keep an exact journal of what shall pass between yourselves & the court or their negotiator, & communicate it from time to time to me, that your progress & prospects may be known. You will be the best judges whether to send your letters by Lisbon, Cadiz, or what other route: but we shall be anxious to hear from you as often as possible. If no safe conveyance occurs from Madrid to Lisbon, and your matter should be of importance sufficient to justify the expence, a courier must be sent: but do not incur the expence unless it be to answer some good end.

TO THE U. S. MINISTER TO THE HAGUE J. MSS.

(WILLIAM SHORT)

PHILADELPHIA Mar 18, 1792.

SIR,—You will receive herewith a commission appointing Mr. Carmichael & yourself joint Commissioners plenipotentiary for treating on the subjects

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therein expressed with the court of Madrid, to which place it is necessary of course that you repair. The instructions & other papers accompanying the commission (and of which no duplicate is hazarded) leave nothing to be added here but to express the desire that this object be pursued immediately. It is hoped that in consequence of my former letter you will have made the necessary arrangements for an immediate departure on your receipt of this. You will of course apprise the court at the Hague in the most respectful and friendly manner that matters of high moment committed to you, oblige you to a temporary absence. You will then be pleased to proceed by such route as you think best to Madrid, taking care to furnish yourself from the representative of Spain at the Hague, or Paris, with such letters or passports as may ensure your papers from being taken out of your possession, or searched. You will judge from existing circumstances whether, when you approach the limits of Spain, it may not be prudent for you to ascertain previously that you will be permitted to pass unsearched. When arrived at Madrid, the other papers before mentioned mark out the line to be pursued. I am with great & sincere esteem, Sir, your most obedient, and most humble servant.

TO WILLIAM SHORT

PHILADELPHIA, March 18, 1792.

MY DEAR SIR,—I shall not repeat in this private dispatch anything said in the public ones sent

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herewith. I have avoided saying in them what you are to do, when the business you go on shall be finished or become desperate, because I hope to hear what you wish. It is decided that Carmichael will be permitted to come away at that precise epoch, so you need have no delicacy on that subject, if you choose to remain there in your present grade. I become more and more satisfied that the Legislature will refuse the money for continuing any *diplomatic* character at the Hague. I hope you will consider success in the object you go on, as the most important one of your life; that you will meditate the matter day and night, and make yourself thoroughly master of it, in every possible form they may force you to discuss it. A former letter has apprised you of my private intentions at the close of the present federal cycle. My successor and his dispositions are equally unknown. The administration may change then in other of its parts. It is essential that this business be completed before any idea of these things get abroad. Otherwise Spain may delay in hopes of a change of counsels here. It will be a great comfort to leave this business safely and amicably settled, which has so long and immediately threatened our peace. Gardoqui will probably be the negotiator on their part. No attentions should be spared towards him, or the Count Florida Blanca. Let what will be said or done, preserve your *sang froid* immovably, and to every obstacle, oppose patience, perseverance, and soothing language. Pardon my sermonizing; it proceeds from the interest I feel in this business, and in your success. It will be

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well that you examine with the most minute attention all the circumstances which may enable you to judge and communicate to us whether the situation of Spain admits her to go to war.

The failure of some stock gamblers and some other circumstances, have brought the public paper low. The 6 per cents have fallen from 26 to 21 1-4, and bank stock from 115 or 120 to 73 or 74, within two or three weeks. This nefarious business is becoming more and more the public detestation, and cannot fail, when the knowledge of it shall be sufficiently extended, to tumble its authors headlong from their heights. Money is leaving the remoter parts of the Union, and flowing to this place to purchase paper; and here, a paper medium supplying its place, it is shipped off in exchange for luxuries. The value of property is necessarily falling in the places left bare of money. In Virginia, for instance, property has fallen 25 per cent. in the last twelve months. I wish to God you had some person who could dispose of your paper at a judicious moment for you, and invest it in good lands. I would do anything my duty would permit, but were I to advise your agent (who is himself a stock dealer) to sell out yours at this or that moment, it would be used as a signal to guide speculations. There can never be a fear but that the paper which represents the public debt will be ever sacredly good. The public faith is bound for this, and no change of system will ever be permitted to touch this; but no other paper stands on ground equally sure. I am glad therefore that yours is all of this kind.

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Some bishop of Spain, who was for some time in Mexico, found there copies of Cortez's correspondence, and on his return to Spain, published them. I have made many efforts to get this book, but in vain. I must beg you to procure it for me while there. It is not many years since it was published. I am, with constant and sincere attachment, dear Sir, your affectionate friend and servant.

REPORT ON NEGOTIATION WITH SPAIN[1] J. MSS.

[Mar 18, 1792]

The appointment of Mr. Carmichael & Mr. Short as Commissioners to Negociate with the court of Spain a treaty or convention relative to the navigation of the Missisipi, & which perhaps may be extended to other interests rendering it necessary that the subjects to be treated of should be developed, & the conditions of arrangement explained, the Secretary of State Reports to the President of the United States the following:

Observations on the subjects of negociation between the U. S. of America & the court of Spain, to be communicated by way of instruction to the Com-

[1] *Cf.* with "Heads of Consideration" (*ante*, pp. 90, 123), and with the first state of this paper on page 391.

The prominence given in this edition to all papers concerning the moot question with Spain is due to the immense importance it had, in a national sense, by its influence upon the whole tide of Western development; by its being the true unifying influence throughout the South, which gave the Democratic party its enduring support from that

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missioners of the U. S. appointed as before mentioned to manage that negociation.

These subjects are

I. Boundary.

II: The Navigation of the Missisipi.

III. Commerce.

I. As to Boundary, that between Georgia and Florida, is the only one which will need any explanation.—Spain sets up the claim to possessions within the state of Georgia, founded on her having rescued them by force from the British, during the late war. The following view of that subject seems to admit no reply.

The several states, now composing the U. S. of America, were, from their first establishment, separate & distinct societies, dependant on no other society of men whatever. They continued at the head of their respective governments the executive Magistrate who presided over the one they had left,

quarter; and, finally, by its personal bearing on Jefferson's political career.

The question had been from its very origin sectional, being, in truth, the only one which drew a distinct line of cleavage between North and South in the period between 1783 and 1792. Jefferson, in his alienation of Northern sentiment, by his attitude towards the capital, the bank, and general financial policy of the government, had lost all apparent support from that section of the country. And in the South, Patrick Henry, Jefferson's greatest political foe, had constituted himself the champion of the almost united Southern and Western demand for the freedom of the river, certain to end the political career of any aspirant to national office (as Jay's practically had been) who should show any lukewarmness in pressing the claim of the right of Americans to the free use of that river. Only by realizing the importance of this matter, veiled as it was in the actual party conflicts of the day, is it possible to understand the constant recurrence of the question, till triumphantly ended by the purchase of Louisiana.

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& thereby secured in effect a constant amity with that nation. In this stage of their government, their several boundaries were fixed, & particularly the Southern boundary of Georgia, the only one now in question, was established at the 31st. degree of latitude from the Apalachicola Westwardly: & the Western boundary, originally the Pacific ocean, was, by the treaty of Paris, reduced to the middle of the Missisipi. The part which our chief magistrate took in a war waged against us by the nation among whom he resided, obliged us to discontinue him, & to name one within every state. In the course of this war, we were joined by France as an ally, & by Spain & Holland as associates having a common enemy. Each sought that common enemy wherever they could find him. France, on our invitation, landed a large army within our territories, continued it with us two years, & aided us in recovering sundry places from the possession of the enemy. But she did not pretend to keep possession of the places rescued. Spain entered into the remote Western part of our territory, dislodged the common enemy from several posts they held therein, to the annoyance of Spain, & perhaps thought it necessary to remain in some of them, as the only means of preventing their return. We in like manner dislodged them from several posts in the same Western territory, to wit Vincennes, Cahokia, Kaskaskia &c. rescued the inhabitants, & retained constantly afterwards both them & the territory under our possession & government. At the conclusion of the war, Great Britain, on the 30th of Nov. 1782. by treaty

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acknowleged our independance & our boundary, to wit, the Missisipi to the West, & the completion of the 31st degree &c. to the South. In her treaty with Spain, concluded seven weeks afterwards, to wit, Jan. 20. 1783, she ceded to her the two Floridas (which had been defined in the Proclamation of 1763.) and Minorca: & by the 8th article of the treaty, Spain agreed to *restore without compensation*, all the territories conquered by her, & not included in the treaty either under the head of cessions or restitutions, that is to say, all except Minorca & the Floridas. According to this stipulation, Spain was expressly bound to have delivered up the possession she had taken within the limits of Georgia to Great Britain, if they were conquests on Great Britain, who was to deliver them over to the U. S. or rather she should have delivered them to the U. S. themselves, as standing, *quoad hoc*, in the place of Gr. Britain: and she was bound by natural right to deliver them to the same U. S. on a much stronger ground, as the real and only proprietors of those places which she had taken possession of, in a moment of danger, without having had any cause of war with the U. S. to whom they belonged, & without having declared any: but on the contrary, conducting herself in other respects as a friend & associate. Vattel. L. 3. 122.

It is an established principle that conquest gives only an inchoate right, which does not become perfect till confirmed by the treaty of peace, & by a renunciation or abandonment by the former proprietor. Had G. Britain been that former proprietor,

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she was so far from confirming to Spain the right to the territory of Georgia invaded by Spain, that she expressly relinquished to the U. S. any right that might remain in her, & afterwards completed that relinquishment by procuring & consolidating with it the agreement of Spain herself to restore such territory without compensation.—It is still more palpable that a war existing between two nations, as Spain & Gr. Britain, could give to neither the right to seize & appropriate the territory of a third, which is even neutral, much less which is an associate in the war, as the U. S. were with Spain. See on this subject Grotius L. 3. c. 6. §. 26. Puffend L. 8. c. 6. §. 17. 23. Vattel L. 3. §. 197. 198. On the conclusion of the general peace the U. S. lost no time in requiring from Spain an evacuation of their territory. This has been hitherto delayed by means which we need not explain to that court, but which have been equally contrary to our right & to our consent.

Should Spain pretend, as has been intimated, that there was a secret article of treaty between the U. S. and Gr. Britain, agreeing if, at the close of the war, the latter should retain the Floridas, that then the Southern boundary of Georgia should be the completion of the 32d degree of North latitude, the Commissioners may safely deny all knolege of the fact, & refuse conference on any such postulatum. Or should they find it necessary to enter into argument on the subject, they will of course do it hypothetically; and in that way may justly say on the part of the U. S. 'Suppose that the U. S. exhausted

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by a bloody & expensive war with G. Britain, might have been willing to have purchased peace by relinquishing, under a particular contingency, a small part of their territory, it does not follow that the same U. S. recruited & better organised, must relinquish the same territory to Spain, without striking a blow. The U. S. too have irrevocably put it out of their power to do it by a new constitution, which guarantees every state against the invasion of it's territory. A disastrous war indeed might, by necessity, supercede this stipulation, (as necessity is above all law) & oblige them to abandon a part of a state. But nothing short of this can justify, or obtain such an abandonment.'

The Southern limits of Georgia depend chiefly on

1. The charter of Carolina to the Lords proprietors in 1663 extending Southwardly to the river Matheo, now called St. John's, supposed in the charter to be in Lat. 31° and 50 West in a direct line as far as the South sea. See the charter in 4.[1] *Mémoires de l'Amerique.* 554.

2. On the Proclamation of the British King in 1763. establishing the boundary between Georgia & the two Floridas, to begin in the Missisipi in 31° of lat north of the equator, & running Eastwardly to the Apalachicola; thence along the sd. river to the mouth of the Flint, thence, in a direct line, to the source of St. Mary's river, & down the same

[1] Mr. Short is desired to purchase this book at Amsterdam, or Paris, as he may not find it at Madrid, & when it shall have answered the purposes of this Mission, let it be sent here for the use of the Secretary of State's office. *T. J.*

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to the ocean. This Proclamation will be found in Postlethwayte, voce 'British America.'

3. On the treaties, between the U. S. and Gr. Britain, of Nov. 30. 1782. & Sep. 1783. repeating & confirming these antient boundaries.

There was an intermediate transaction, to wit, a Convention concluded at the Prado in 1739. whereby it was agreed that Ministers plenipotentiary should be immediately appointed by Spain & Gr. Britain for settling the limits of Florida & Carolina. The Convention is to be found in the collections of treaties; but the proceedings of the Plenipotentiaries are unknown here. Qu. if it was on that occasion that the Southern boundary of Carolina was transferred from the latitude of Matheo or St. John's river, further north to the St. Mary's? or was it the Proclamation of 1763. which first removed this boundary? [if the Commissioners can procure in Spain, a copy of whatever was agreed on in consequence of the Convention of the Prado, it is a desireable State-paper here.]

To this demonstration of our rights, may be added the explicit declaration of the court of Spain that she would accede to them. This took place in conversations & correspondence thereon between Mr. Jay, M. P. for the U. S. at the court of Madrid, the Marquis de la Fayette, & the Count de Florida Blanca. Monsr de la Fayette, in his letter of Feb. 19. 1783. to the Count de Florida Blanca, states the result of their conversations on limits in these words. 'With respect to limits, his Catholic Majesty has adopted those that are determined by the prelimin-

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aries of the 30th of Nov. between the U. S. & the court of London.'—The C^t^ de Florida Blanca, in his answer of Feb. 22. to M. de la Fayette, says, 'Altho' it is his Majesty's intentions to abide for the present by the limits established by the treaty of the 30th of Nov. 1782. between the English & the Americans, the King intends to inform himself particularly whether it can be in any ways inconvenient or prejudicial to settle that affair amicably with the U. S.' And M. de la Fayette in his letter of the same day to Mr. Jay, wherein he had inserted the preceding, says, 'on receiving the answer of the Count de Florida Blanca (to wit, his answer beforementioned to M. de la Fayette), I desired an explanation respecting the addition that relates to the limits. I was answered that it was a fixed principle to abide by the limits established by the treaty between the English & the Americans: that his remark related only to more unimportant details, which he wished to receive from the Spanish Commandants, which would be amicably regulated, & *would by no means oppose the general principle.* I asked him before the Ambassador of France [M. de Montmorin] whether he would give me his *word of honor* for it? He assured me *he would*, & that *I might engage it to the U. S.*' See the Report sent herewith.

II. The Navigation of the Missisipi.

Our right to navigate that river, from it's source to where our Southern boundary strikes it, is not questioned. It is from that point downwards only, that the exclusive navigation is claimed by Spain;

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that is to say, where she holds the country on both sides, to wit, Louisiana on the West, & Florida on the East.

Our right to participate in the navigation of that part of the river also, is to be considered under

1. The Treaty of Paris of 1763.
2. The Revolution treaty of 1782.–3.
3. The law of Nature and Nations.

1. The war of 1759–1763. was carried on jointly by Gr. Britain & the 13 colonies, now the U. S. of America, against France & Spain. At the peace which was negociated by our Common Magistrate, a right was secured to 'the subject of Gr. Britain (the common designation of all those under his government) to navigate the Missisipi, in it's whole breadth & length from it's source to the sea; & expressly that part which is between the island of New Orleans, & the right bank of that river; as well as the passage both in & out of it's mouth, & that the vessels should not be stopped, visited or subjected to the payment of any duty whatsoever.' These are the words of the treaty article VII. Florida was at the same time ceded by Spain, & it's extent Westwardly was fixed to the lakes Pontchartrain & Maurepas, & the river Missisipi; & Spain received soon after from France a cession of the island of New Orleans, & all the country she held Westward of the Missisipi: subject of course to our right of navigating between that country and the island, previously granted to us by France. This right was not parcelled out to us in severalty, that is to say, to each the exclusive navigation of so much

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of the river as was adjacent to our several shores, in which way it would have been useless to all; but it was placed on that footing, on which alone it could be worth anything, to wit, as a right to all to navigate the whole length of the river in common. The import of the terms, & the reason of the thing, prove it was a right of common in the whole, & not a several right to each, of a particular part. To which may be added the evidence of the stipulation itself, that we should navigate between New Orleans & the Western bank, which being adjacent to none of our states, could be held by us only as a right of common.—Such was the nature of our right to navigate the Missisipi, as far as established by the treaty of Paris.

2. In the course of the Revolution-war, in which the thirteen colonies, Spain & France were opposed to Great Britain, Spain took possession of several posts held by the British in Florida. It is unnecessary to enquire whether the possession of half a dozen posts scattered thro' a country of seven or eight hundred miles extent, could be considered as the possession & conquest of that country. If it was, it gave still but an inchoate right, as was before explained, which could not be perfected but by the relinquishment of the former possessor at the close of the war. But certainly it could not be considered as a conquest *of the river*, even against Gr. Britain, since the possession of the shores, to wit of the island of New Orleans on the one side, & Louisiana on the other, having undergone no change, the right in the water would remain the same, if considered only in

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it's relation to them: & if considered as a distinct right, independant of the shores, then no naval victories obtained by Spain over Gr. Britain in the course of the war, gave her the colour of conquest over any water which the British fleet could enter, still less can she be considered as having conquered the *river* as against the U. S. with whom she was not at war. We had a common right of navigation in the part of the river between Florida, the island of New Orleans & the Western bank, & nothing which passed between Spain & Gr. Britain, either during the war, or at it's conclusion, could lessen that right. Accordingly at the treaty of Nov. 1782. Gr. Britain confirmed the rights of the U. S. to the navigation of the river, from it's source to it's mouth, & in Jan. 1783. compleated the right of Spain to the territory of Florida, by an absolute relinquishment of all her rights in it. This relinquishment could not include the navigation held by the U. S. in their own right, because this right existed in themselves only, & was not in Gr. Britain. If it added anything to the rights of Spain respecting the river between the Eastern & Western banks, it could only be that portion of right which Gr. Britain had retained to herself in the treaty with the U. S. held seven weeks before, to wit, a right of using it in common with the U. S. So that as by the treaty of 1763. the U. S. had obtained a common right of navigating the whole river, from it's source to it's mouth; so by the treaty of 1782. that common right was confirmed to them by the only power who could pretend claims against them founded on the state

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of war, nor has that common right been transferred to Spain by either conquest or cession.

But our right is built on ground still broader, & more unquestionable, to wit,

3. On the law of Nature & Nations.

If we appeal to this, as we feel it written in the heart of man, what sentiment is written in deeper characters, than that the Ocean is free to all men, & the Rivers to all their inhabitants? Is there a man, savage or civilized, unbiassed by habit, who does not feel & attest this truth? Accordingly, in all tracts of country united under the same political society, we find this natural right universally acknoleged & protected by laying the navigable rivers open to all their inhabitants. When their rivers enter the limits of another society, if the right of the upper inhabitants to descend the stream is in any case obstructed, it is an act of force by a stronger society against a weaker, condemned by the judgment of mankind. The late case of Antwerp and the Scheld was a striking proof of a general union of sentiment on this point: as it is believed that Amsterdam had scarcely an advocate out of Holland, and even there its pretensions were advocated on the ground of treaties, & not of natural right. [The Commissioners would do well to examine thoroughly what was written on this occasion.]—The Commissioners will be able perhaps to find either in the practice or the pretensions of Spain as to the Douro, Tagus & Guadiana, some acnolegements of this principle on the part of that nation.—This sentiment of right in favor of the upper inhabitants

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must become stronger in the proportion which their extent of country bears to the lower. The U. S. hold 600.000 square miles of habitable territory on the Missisipi & it's branches, & this river and it's branches affords many thousands of miles of navigable waters, penetrating this territory in all it's parts. The inhabitable grounds of Spain below our boundary, & bordering on the river, which alone can pretend any fear of being incommoded by our use of the river, are not the thousandth part of that extent. This vast portion of the territory of the U. S. has no other outlet for it's productions, & these productions are of the bulkiest kind. And in truth their passage down the river, may not only be innocent as to the Spanish subjects on the river, but cannot fail to enrich them far beyond their present condition. The real interests then of all the inhabitants upper & lower, concur in fact with their rights.

If we appeal to the law of nature & nations, as expressed by writers on the subject, it is agreed by them that, were the river, where it passes between Florida & Louisiana, the exclusive right of Spain, still an innocent passage along it is a natural right in those inhabiting it's borders above. It would indeed be what those writers call an imperfect right, because the modification of it's exercise depends in considerable degree on the conveniency of the nation thro' which they are to pass. But it is still a right as real as any other right however well defined: & were it to be refused, or to be so shackled by regulations not necessary for the peace or safety of it's inhabitants, as to render it's use impracticable to

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us, it would then be an injury of which we should be entitled to demand redress. The right of the upper inhabitants to use this navigation is the counterpart to that of those possessing the shores below, & founded on the same natural relations with the soil & water, & the line on which their rights meet is to be advanced or withdrawn, so as to equalize the inconveniencies resulting to each party from the exercise of the right by the other. This estimate is to be fairly made, with a mutual disposition to make equal sacrifices, & the numbers on each side are to have their due weight in the estimate. Spain holds so very small a tract of habitable land on either side below our boundary, that it may in fact be considered as a streight of the sea. For tho' it is 80. leagues from our boundary to the mouth of the river, yet it is only here & there, in spots & slips, that the land rises above the level of the water in times of inundation. There are then, & ever must be so few inhabitants on her part of the river, that the freest use of it's navigation may be admitted to us without their annoyance. For authorities on this subject see Grot. ch. 12. c. 2. §. 11. 12. 13. c. 3. §. 7. 8. 12. Puffend. L. 3. c. 3. §. 3. 4. 5. 6. Wolffs inst. §. 310. 311. 312. Vattel. L. 1. §. 292. L. 2. §. 123 to 139.

It is essential to the interests of both parties that the navigation of the river be free to both on the footing on which it was defined by the treaty of Paris. viz. thro' it's whole breadth. The channel of the Missisipi is remarkably winding, crossing & recrossing perpetually from one side to the other

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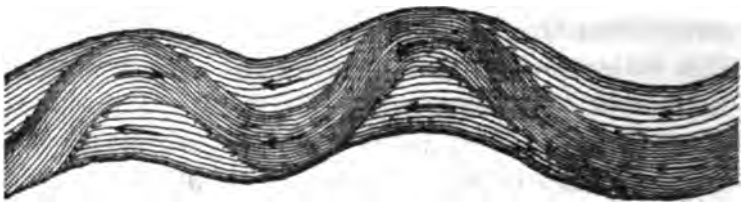
of the general bed of the river. Within the elbows thus made by the channel, there is generally an eddy setting upwards, and it is by taking advantage of these eddies & constantly crossing from one to another of them that boats are enabled to ascend the river. Without this right, the whole river would be impracticable both to the Americans & Spaniards.



It is a principle that the right to a thing gives a right to the means without which it could not be used, that is to say, that the means follow their end. Thus a right to navigate a river, draws to it a right to moor vessels to it's shores, to land on them in cases of distress or for other necessary purposes &c. This principle is founded in natural reasons, is evidenced by the common sense of mankind, and declared by the writers before quoted. See Grot. L. 2. c. 2. §. 15. Puffend. L. 3. c. 3. §. 8. Vattel L. 2, §. 129. The Roman law, which, like other municipal laws, placed the navigation of their rivers on the footing of nature, as to their own citizens, by declaring them public ('flumina publica sunt pax est, populi Romani.' Inst. 2. T. 1. §. 2.) declared also that the right to the use of the shores was incident to that of the water. Ib. §. 1. 3. 4. 5. The laws of every country probably do the same. This

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must have been so understood between France & Gr. Britain at the treaty of Paris, when a right was ceded to British subjects to navigate the whole river, & expressly that part between the island of New Orleans, & the Western bank, without stipulating a word about the use of the shores, tho' both of them belonged to France, & were to belong immediately to Spain. Had not the use of the shores been considered as incident to that of the water, it would have been expressly stipulated; since it's necessity was too obvious to have escaped either party. Accordingly, all British subjects used the shores habitually for the purposes necessary to the navigation of the river: and when a Spanish governor undertook, at one time, to forbid this, & even cut loose the vessels fastening to the shores, a British frigate went immediately, moored itself to the shore opposite the town of New Orleans, & set out guards with orders to fire on such as might attempt to disturb her moorings. The Governor acquiesced; the right was constantly exercised afterwards, & no interruption ever offered.

This incidental right extends even beyond the shores when circumstances render it necessary to the exercise of the principal right, as in the case of a vessel damaged, where the mere shore would not be a safe deposit for her cargo till she could be repaired, she may remove it into safe ground off the river. The Roman law shall be quoted here too, because it gives a good idea both of the extent, & the limitations of this right. Inst. L. 2. T. 1. §. 4.'Riparum quoque usus publicus est, ut volunt jura gentium

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sicut et ipsius fluminis usus publicus est. Itaque et navigium ad ripas appellere et funes de arboribus ibi natis religare, et navis onera in his locis reponere, liberum cuique est: sicuti nec per flumen ipsum navigare quisquam prohibetur.' And again §. 5. 'Litorum quoque usus publicus, sive juris gentium, est, ut et ipsius maris: et obid data est facultas volentibus, casas ibi sibi componere, in quas se recipere possint &c.' Again §. 1. 'Nemo igitur ad litora maris accedere prohibetur: veluti deambulare, aut navem appellere, sic tamen ut a villis, id est domiciliis, monumentisque ibi positis, et ab ædificiis abstineat, nec iis damnum inferat.' [1]

Among incidental rights, are those of having pilots, buoys, beacons, landmarks, lighthouses, &c. to guide the navigators. The establishment of these at joint expence, & under joint regulations, may be

[1] Translations of passages in the Instructions of Mar 18. 1792. to Carm. & Short.

'Flumina publica &c.' rivers belonging to the public, that is to say to the Roman people.

'Riparum &c.'

'The use of the banks belongs also to the public, by the law of nations, as the use of the river itself does, therefore every one is free to moor his vessel to the bank, to fasten his cables to the trees growing on it, to deposit the cargo of his vessel in those places: in like manner as every one is free to navigate the river itself.'

'Litorum &c.'

'The use of the shores also belongs to the public, or is under the law of nations, as is that of the sea itself, therefore it is that those who chuse have a right to build huts there, into which they may betake themselves.'

'Nemo &c.'

'Nobody therefore is prohibited from landing on the sea-shore, walking there, or mooring their vessel there, so nevertheless that they keep out of the villas, that is, the habitations, monuments & public buildings erected there, and do them no injury.'

'Gentis amicissimæ.' 'The most favored nation.' *T. J.*

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the subject of a future convention. In the meantime both should be free to have their own, & refuse those of the other, both as to use & expence.

Very peculiar circumstances attending the river Missisipi require that the incidental right of accomodation on the shore, which needs only occasional exercise on other rivers, should be habitual & constant on this. Sea vessels cannot navigate that river, nor the river vessels go to sea. The navigation would be useless then, without an entrepot where these vessels might safely deposit their own cargoes, & take those left by the others, & where warehouses & keepers might be constantly established for the safeguard of the cargoes. It is admitted indeed that the incidental right thus extended into the territory of the bordering inhabitants, is liable to stricter modifications in proportion as it interferes with their territorial right. But the inconveniences of both parties are still to have their weight, & reason & moderation on both sides are to draw the lines between them. As to this, we count much on the liberality of Spain, on her concurrence in opinion with us that it is for the interest of both parties to remove completely this germ of discord from between us, & draw our friendship as close as circumstances proclaim that it should be, & on the considerations which make it palpable that a convenient spot placed under our exclusive occupation, & exempted from the jurisdiction & police of their government, is far more likely to preserve peace, than a mere free-port, where eternal altercations would keep us in eternal ill humour with each other.

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The policy of this measure, & indeed of a much larger concession, having been formerly sketched in a paper of July 12. 1790. sent to the Commissioners severally, they are now referred to that.

If this be agreed to, the manner of fixing on that extra territorial spot, becomes highly interesting. The most desireable to us would be a permission to send Commissioners to chuse such spot, below the town of New Orleans, as they should find most convenient.

If this be refused, it would be better now to fix on the spot. Our information is, that the whole country below the town, & for 60. miles above it, on the Western shore, is low, marshy, & subject to such deep inundation, for many miles from the rivers, that, if capable of being reclaimed at all by banking, it would still never afford an entrepot sufficiently safe: that, on the Eastern side, the only lands below the town, not subject to inundation, are at the Detour aux Anglois, or English turn, the highest part of which is that whereon the fort Ste Marie formerly stood. Even this is said to have been raised by art, & to be very little above the inundations. This spot then is what we would fix on, if obliged now to decide, with from one to as many square miles of the circumjacent lands as can be obtained, & comprehending expressly the shores above & below the site of the fort as far as possible. —But as to the spot itself, the limits, & even whether it shall be extra territorial, or only a free port, & what regulations it shall be laid under, the convenience of that government is entitled to so much re-

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spect & attention, on our part, that the arrangement must be left to the management of the Commissioners, who will doubtless use their best efforts to obtain all they can for us.

The worst footing on which the determination of the ground could be placed, would be a reference to joint Commissioners: because their disagreement, a very probable, nay a certain event, would undo the whole convention, & leave us exactly where we now are. Unless indeed they will engage to us, in case of such disagreement, the highest grounds at the Detour aux Anglois, of convenient extent, including the landings & harbour thereto adjacent. This would ensure us that ground, unless better could be found, & mutually preferred, & close the delay of right under which we have so long laboured, for peace sake.

It will probably be urged, because it was urged on the former occasion, that if Spain *grants* to us the right of navigating the Missisipi, other nations will become entitled to it, by virtue of treaties giving them the rights of *the most favored nations*.

Two answers may be given to this. 1. When those treaties were made, no nations could be under contemplation but those then existing, or those, at most, who might exist under similar circumstances. America did not then exist as a nation: & the circumstances of her position & commerce are so totally dissimiliar to everything then known, that the treaties of that day were not adapted to any such being. They would better fit even China than America, because, as a manufacturing nation,

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China resembles Europe more. When we sollicited France to admit our whale oils into her ports, tho' she had excluded all foreign whale oils, her minister made the objection now under consideration, & the foregoing answer was given. It was found to be solid, & the whale oils of the U. S. are, in consequence, admitted, tho' those of Portugal & the Hanse Towns, & of all other nations are excluded. Again, when France & England were negociating their late treaty of commerce, the great dissimilitude of our commerce (which furnishes raw materials to employ the industry of others, in exchange for articles whereon industry has been exhausted) from the commerce of the European nations (which furnished things ready wrought only) was suggested to the attention of both negotiators, & that they should keep their nations free to make particular arrangements with ours, by communicating to each other only the rights of the most favored *European* nation. Each was separately sensible of the importance of the distinction; & as soon as it was proposed by the one, it was acceded to by the other, & the word *European* was inserted in their treaty. It may fairly be considered then as the rational and received interpretation of the diplomatic term 'gentis amicissimæ' that it has not in view a nation, unknown in many cases at the time of using the term, & so dissimilar in all cases, as to furnish no ground of just reclamation to any other nation.

2. But the decisive answer is that Spain does not *grant* us the navigation of the river. We have an

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inherent right to it: & *she* may repel the demand of any other nation, by candidly stating her act to have been, what in truth it is, a recognition only, & not a grant.

If Spain apprehends that other nations may claim access to our ports in the Missisipi, under their treaties with us, giving them a right to come & trade in all our ports, tho' we would not chuse to insist on express stipulation against them, yet we shall think ourselves justified to acquiesce in fact under any regulations, Spain may, from time to time, establish against their admission.

Should Spain renew another objection which she relied much on before, that the English, at the revolution treaty, could not cede to us what Spain had taken from them by conquest, & what of course they did not possess themselves, the preceding observations furnish sufficient matter for refutation.

To conclude the subjects of boundary & navigation, each of the following conditions is to be considered by the Commissioners as a *sine qua non*.

1. That our Southern boundary remains established at the completion of 31. degrees of latitude on the Missisipi, & so on to the Ocean as has been before described; & our Western one along the middle of the channel of the Missisipi, however that channel may vary, as it is constantly varying, & that Spain cease to occupy, or to exercise jurisdiction in any part Northward or Eastward of these boundaries.

2. That our right be acknolged of navigating the Missisipi, 'in it's whole breadth & length, from

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it's source to the sea,' as established by the treaty of 1763.

3. That neither 'vessels,' cargoes, or the persons on board 'be stopped, visited or subjected to the payment of any duty whatsoever.' Or if a visit must be permitted, that it be under such restrictions as to produce the least possible inconvenience. But it should be altogether avoided, if possible, as the parent of perpetual broils.

4. That such conveniences be allowed us ashore, as may render our right of navigation practicable, & under such regulations as may bonâ fide respect the preservation of peace & order alone, & may not have in object to embarras our navigation, or raise a revenue on it. While the substance of this article is made a *sine quâ non*, the modifications of it are left altogether to the discretion & management of the Commissioners.

We might add, as a fifth *sine quâ non*, that no phrase should be admitted in the treaty, which would express or imply that we take the navigation of the Missisipi as a *grant* from Spain. But, however disagreeable it would be to subscribe to such a sentiment, yet were the conclusion of a treaty to hang on that single objection, it would be expedient to waive it, & to meet, at a future day, the consequences of any resumption they may pretend to make, rather than at present those of a separation without coming to any agreement.

We know not whether Spain has it in idea to ask a compensation for the ascertainment of our right.

1. In the first place, she cannot in reason ask a

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compensation for yielding what we have a right to, that is to say, the navigation of the river, & the conveniences incident to it of natural right.

2. In the second place, we have a claim on Spain for indemnification for nine years exclusion from that navigation, & a reimbursement of the heavy duties (not less for the most part, than 15. per cent on extravagant valuations) levied on the commodities she has permitted to pass to N. Orleans. The relinquishment of this will be no unworthy equivalent for any accomodations she may indulge us with beyond the line of our strict right. And this claim is to be brought into view in proper time & manner merely to be abandoned in consideration of such accomodations.—We have nothing else to give in exchange. For as to territory, we have neither the right, nor the disposition to alienate an inch of what belongs to any member of our Union. Such a proposition therefore is totally inadmissible, & not to be treated of for a moment.

III. On the former conferences on the navigation of the Missisipi, Spain chose to blend with it the subject of Commerce, & accordingly specific propositions thereon passed between the negociators. Her object then was to obtain our renunciation of the navigation, & to hold out commercial arrangements, perhaps, as a lure to us, perhaps however she might then, & may now, really set a value on commercial arrangements with us, & may receive them as a consideration for accomodating us in the navigation, or may wish for them, to have the appearance of receiving a consideration.

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Commercial arrangements, if acceptable in themselves, will not be the less so, if coupled with those relating to navigation & boundary. We have only to take care that they be acceptable in themselves.

There are two principles which may be proposed as the basis of a commercial treaty. 1. That of exchanging the privileges of *native citizens:* or 2. those of the *most favored nation.*

1. With the nations holding important possessions in America, we are ready to exchange the rights of native citizens; provided they be extended thro' the whole possessions of both parties. But the propositions of Spain, made on the former occasion, (a copy of which accompanies this) were, that we should give their merchants, vessels, & productions the privilege of native merchants, vessels & productions, thro' the whole of our possessions; & they give the same to ours, only in Spain & the Canaries. This is inadmissible because unequal: and as we believe that Spain is not ripe for an equal exchange on this basis, we avoid proposing it.

2. Tho' treaties, which merely exchange the rights of the most favored nations, are not without all inconveniences, yet they have their conveniences also. It is an important one that they leave each party free to make what internal regulations they please, & to give what preferences they find expedient to native merchants, vessels & productions and as we already have treaties on this basis with France, Holland, Sweden & Prussia, the two former of which are perpetual, it will be but small additional embarrassment to extend it to Spain. On the contrary,

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we are sensible it is right to place that nation on the most favored footing whether we have a treaty with them or not: & it can do us no harm to secure, by treaty, a reciprocation of the right.

Of the four treaties before mentioned, either the French or the Prussian, might be taken as a model. But it would be useless to propose the Prussians; because we have already supposed that Spain would never consent to those articles which give to each party access to all the dominions of the other: and without this equivalent, we would not agree to tie our own hands so materially in war as would be done by the 23^{d} article, which renounces the right of fitting out privateers, or of capturing merchant vessels.— The French treaty therefore is proposed as the model. In this however the following changes are to be made.

We should be admitted to all the dominions of Spain, to which any other foreign nation is, or may be, admitted.

Art. 5. Being an exception from a particular duty in France will of course be omitted, as inapplicable to Spain.

Art. 8. To be omitted as unnecessary with Morocco, & inefficacious & little honorable, with any of the Barbary powers. But it may furnish occasion to sound Spain on the project of a Convention of the powers at war with the Barbary states, to keep up, by rotation, a constant cruize, of a given force, on their coasts, till they shall be compelled to renounce for ever, and against all nations, their predatory practices. Perhaps the infidelities of the Algerines to their treaty of peace with Spain, tho' the

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latter does not chuse to break openly, may induce her to subsidize *us*, to cruize against them with a given force.

Art. 9. & 10. Concerning fisheries, to be omitted as inapplicable.

Art. 11. The first paragraph of this article, respecting the Droit d'aubaine, to be omitted: that law being supposed peculiar to France.

Art. 12. Giving asylum in the ports of either to the armed vessels of the other, with the prizes taken from the enemies of that other, must be qualified as it is in the 19th Art. of the Prussian treaty, as the stipulation in the latter part of the article 'that no shelter or refuge shall be given in the ports of the one, to such as shall have made prize on the subjects of the other of the parties' would forbide us, in case of a war between France & Spain, to give shelter in our ports to prizes made by the latter on the former, while the first part of the article would oblige us to shelter those made by the former on the latter; a very dangerous covenant & which ought never to be repeated in any other instance.

Art. 29. Consuls should be received at all the ports at which the vessels of either party may be received.

Art. 30. Concerning Free ports in Europe & America. Free ports in the Spanish possessions in America, & particularly at the Havanna, San Domingo in the island of that name, and St. John of Porto Rico, are more to be desired, than expected. It can therefore only be recommended to the best endeavors of the Commissioners to obtain them. It

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will be something to obtain for our vessels, flour &c admission to those ports, during their pleasure. In like manner, if they could be prevailed on to establish our right of cutting logwood in the bay of Campeachy on the footing on which it stood before the treaty of 1763. it would be desireable, and not endanger to us any contest with the English, who, by the revolution treaty, are restrained to the South Eastern parts of Yucatan.

Art. 31. The *act* of ratification on our part may require a twelvemonth from the date of the treaty, as the Senate meets, regularly, but once a year, & to return it to Madrid for *exchange* may require four months more. It would be better indeed if Spain would send her ratification to be exchanged by her representative here.

The Treaty must not exceed 12. or 15. years duration, except the clauses relating to boundary & the navigation of the Missipi, which must be perpetual & final. Indeed these two subjects had better be in a separate instrument.

There might have been mentioned a Third species of arrangement, that of making special agreements, on every special subject of commerce, & of settling a tariff of duty to be paid on each side, on every particular article. But this would require for our Commissioners, a very minute knowledge of our commerce; as it is impossible to foresee every proposition, of this kind, which might be brought into discussion, & to prepare them for it by information & instruction from hence. Our commerce too is, as yet, rather in a course of experiment & the channels

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in which it will ultimately flow are not sufficiently known to enable us to provide for it, by special agreement. Nor have the exigencies of our new government, as yet, so far developed themselves, as that we can tell to what degree we may, or must have recourse to commerce, for the purposes of revenue. No common consideration therefore ought to induce us, as yet, to arrangements of this kind. Perhaps nothing should do it, with any nation, short of the privileges of natives, in all their possessions, foreign & domestic.

It were to be wished indeed that some positively favorable stipulations respecting our grain, flour, & fish, could be obtained, even on our giving reciprocal advantages to some other commodities of Spain, say her wines and brandies. But 1. If we quit the ground of the *most favored nation* as to certain articles for our convenience, Spain may insist on doing the same for other articles for her convenience; & thus our Commissioners will get themselves on the ground of a *treaty of detail*, for which they will not be prepared. 2. If we grant favor to the wines & brandies of Spain, then Portugal & France will demand the same: & in order to create an equivalent, Portugal may lay a duty on our fish & grain, & France a prohibition on our whale oils, the removal of which will be proposed as an equivalent.

Thus much however, as to grain and flour, may be attempted. There has, not long since, been a considerable duty laid on them in Spain. This was while a treaty on the subject of commerce was

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pending between us & Spain, as that court considers the matter. It is not generally thought right to change the state of things, pending a treaty concerning them. On this consideration, & on the motive of cultivating our friendship, perhaps the Commissioners may induce them to restore this commodity to the footing on which it was on opening the conferences with Mr. Gardoqui on the 26th day of July 1785.—If Spain says 'do the same by your tonnage on our vessels, the answer may be that our foreign tonnage affects Spain very little, & other nations very much: whereas the duty on flour in Spain affects us very much, & other nations very little. Consequently there would be no equality in reciprocal relinquishment, as there had been none in the reciprocal innovation: & Spain by insisting on this, would in fact only be aiding the interests of her rival nations, to whom we should be forced to extend the same indulgence. At the time of opening the conferences too, we had as yet not erected any system, our government itself being not yet erected. Innovation then was unavoidable on our part, if it be innovation to establish a system. We did it on fair & general grounds: on ground favorable to Spain; but they had a system, & therefore innovation was avoidable on their part.

It is known to the Commissioners that we found it expedient to ask the interposition of France lately to bring on this settlement of our boundary, & the navigation of the Missisipi. How far that interposition has contributed to produce it, is uncertain. But we have reason to believe that her further

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interference would not produce an agreeable effect on Spain. The Commissioners therefore are to avoid all further communications on the subject with the Ministers of France, giving to them such explanations as may preserve their good dispositions. But if ultimately they shall find themselves unable to bring Spain to agreement on the subject of navigation & boundary, the interposition of France, as a mutual friend, & the guarantee of our limits, is then to be asked, in whatever light Spain may chuse to consider it.

Should the negociations, on the subject of the navigation & boundary, assume, at any time, an unhopeful aspect, it may be proper that Spain should be given to understand that, if they are discontinued, without coming to an agreement, the government of the U. S. cannot be responsible for the longer forbearance of their Western inhabitants. At the same time the abandonment of the negociation should be so managed, as that, without engaging us to a further suspension of the exercise of our rights, we may not be committed to resume them in the instant. The present turbid situation of Europe cannot leave us long without a safe occasion of resuming our territory & navigation, & of carving for ourselves those conveniences on the shores which may facilitate & protect the latter effectually & permanently.

We had a right to expect that, pending a negociation, all things would have remained *in statu quo*, & that Spain would not have proceeded to possess herself of other parts of our territory. But she has lately taken & fortified a new post at the Walnut

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Hills above the mouth of the Yazoo river, & far above the 31st degree. This garrison ought to have been instantly dislodged, but for our for wish to be in friendship with Spain, & our confidence in her assurances 'to abide by the limits established in our treaty with England.' Complaints of this unfriendly & uncandid procedure, may be brought forward, or not, as the Commissioners shall see expedient.

REPORT ON CONVENTION WITH SPAIN [1] J. MSS.

[Mar 22 1792]

Heads of consideration on the establishment of Conventions between the United States and their neighbors for the mutual delivery of Fugitives from Justice.

Has a nation a right to punish a person who has not offended itself?

Writers on the law of nature agree that it has not. That on the contrary, Exiles and Fugitives are

[1] Transmitted to the President with the following note:

"The Secretary of state having had under consideration the expediency & extent of a Convention with Spain to be established with respect to fugitives from the United States to their adjoining provinces, or from those provinces to the United States, Reports to the President of the United States the inclosed Analytical view of the motives & principles which should govern such a convention, and the Project of a convention adapted thereto, which he is of opinion should be forwarded to Messrs Carmichael & Short, with powers to treat & conclude thereon."

To this Washington replied:

MAR 25, 1792

"The President of the United States has attentively considered the 'Project of a Convention with the Spanish' which was submitted to

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to them as other strangers. And have a right of residence, unless their presence would be noxious. e. g. infectious persons.

One writer extends the exception to atrocious criminals, too imminently dangerous to Society.

Namely to Pirates, Murderers and Incendiaries. Vattel. L. 1. § 233.

The punishment of *Piracy*, being provided for by our law, need not be so by Convention.

Murder. Agreed that this is one of the extreme crimes justifying a denial of habitation, arrest, and redelivery.

It should be carefully restrained by definition to Homicide of *malice prepense*, and *not of the nature of Treason*.

Incendiaries, or those guilty of *Arson*. This crime so rare, as not to call for extraordinary provision by a convention. The only *Rightful* subject then of arrest and delivery, of which we have *Need*, is Murder.

Ought we to wish to strain the natural right of arresting and redelivering fugitives, to other cases?

him by the Secretary of State, and informs the Secretary, that the same meets with his approbation. The President, however, thinks it proper to observe, that in perusing the before-mentioned Project, some doubts arose in his mind as to the expediency of two points mentioned therein,—the one relative to instituting a civil, instead of a criminal process against forgers, who generally, if not always, are possessed of little property; the other respecting the *unlimited* time in which a person may be liable to an action.

"By expressing these queries, the President would not be understood as objecting to the points touched upon; he only wishes to draw the Secretary's further attention to them; and if he upon reconsideration think it right for them to stand upon the present footing, the President acquiesces therein."

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The punishment of all real crimes is certainly desirable as a security to society.

The security is greater in proportion as the chances of avoiding punishment are less.

But does the Fugitive from his Country avoid punishment?

He incurs Exile, not voluntary, but under a Moral necessity, as strong as Physical.

Exile, in some countries, has been the Highest punishment allowed by the laws.

To most minds it is *next to death:* to many *beyond it.*

The Fugitive indeed is not of the latter: he must estimate it some what *less than death.*

It may be said that to *some*, as Foreigners, it is no punishment.

Arson: These cases are few. Laws are to be made for the mass of cases.

The object of a Convention then in other cases would be that the Fugitive might not avoid *the difference between Exile, and the legal punishment of the Case.*

Now, in what cases would this *Difference* be so important as to over weigh even the simple Inconvenience of multiplying compacts?

1st. Treason. This, when real, merits the highest punishment.

But most Codes extend their definitions of treason to acts not really against one's country.

They do not distinguish between acts against the *government*, and acts against the *Oppressions of the Government.*

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The latter are virtues: yet have furnished more victims to the Executioner than the former.

Because real Treasons are rare: Oppressions frequent.

The unsuccessful Struggles against Tyranny have been the chief Martyrs of Treason laws in all countries.

Reformation of government with our neighbors, as much wanting now as Reformation of religion is, or ever was anywhere.

We should not wish then to give up to the Executioner the Patriot who fails, and flees to us.

Treasons then, taking the *simulated* with the *real*, are sufficiently punished by Exile.

2. Crimes against Property. The punishment, in most countries immensely disproportionate to the crime.

In England, and probably in Canada, to steal a Hare, is death the 1st offence: to steal above the value of 12d death the 2d offence.

All Excess of punishment is a *Crime*. To remit a fugitive to Excessive punishment, is to be *accessory* to the crime.

Ought we to wish for the obligation, or the right to do it?

Better, on the whole, to consider these crimes as sufficiently punished by the Exile.

There is one crime, however, against property, pressed by it's consequences into more particular notice, to wit:

Forgery, whether of *coin*, or *paper;* and whether Paper, of *public*, or *private* obligation.

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But the Fugitive for forgery, is punished by Exile and Confiscation of the property he leaves.

To which, add by Convention a civil action against the property he carries or acquires, to the amount of the special damage done by his forgery.

The carrying away of the property of another may also be reasonably made to found a civil action.

A Convention, then, may include Forgery and the carrying away the property of others under the head of

3. Flight from Debts.

To *remit* the fugitive in this case, would be to remit him in every case.

For in the present state of things, it is next to impossible not to owe something.

But I see neither injustice nor inconvenience in permitting the fugitive to be sued in our courts.

The laws of some countries punishing the unfortunate debtor by perpetual imprisonment, he is right to liberate himself by flight, and it would be wrong to re-imprison him in the country to which he flies. Let all process therefore be confined to his property.

Murder, not amounting to treason, being the only case in which the Fugitive is to be delivered,

On what evidence, and by whom shall he be delivered?

In this country, let any justice of the Supreme court of the United States, or their Judge of the district where the Fugitive is found, use the same proceedings as for a murder committed on the high seas. Until the finding of the "True bill" by the Grand jury; but

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Evidence on oath from the country demanding him; though in *writing* and *ex parte* should have the same effect as if delivered *orally* at the *examination*.

A True bill being found by the Grand jury, let the officer in whose custody the fugitive is, deliver him to the person charged to demand and receive him.

In the British provinces adjoining us the same proceedings will do.

In the Spanish provinces a proceeding adapted to the course of their laws should be agreed on.

PROJECT OF A CONVENTION WITH THE SPANISH PROVINCES [1] J. MSS.

[March 22, 1792.]

Any person having committed murder or malice prepense, not of the nature of treason, within the United States or the Spanish provinces adjoining thereto, and fleeing from the justice of the country, shall be delivered up by the government where he shall be found, to that from which he fled, whenever demanded by the same.

[1] This is the completed project of the foregoing paper, and was sent to the U. S. Commissioners to Spain with the following letter:

PHILADELPHIA April 24. 1792.

"GENTLEMEN,—My letter of Mar. 18, conveyed to you full powers for treating with Spain on the subjects therein expressed. Since that our attention has been drawn to the case of fugitive debtors & criminals whereon it is always well that coterminous states should understand one another as far as their ideas on the rightful powers of government can be made to go together. Where they separate the cases may be left unprovided for. The inclosed paper, approved by the President, will explain to you how far we can go in an agreement with Spain *for her territories bordering on us;* and the plan of a convention is there stated. You are desired to propose the matter to that court, and establish with

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The manner of the demand by the Spanish government, and of the compliance by that of the United States, shall be as follows. The person authorized by the Spanish government, where the murder was committed to pursue the fugitive, may apply to any justice of the supreme court of the United States, or to the district Judge of the place where the fugitive is, exhibiting proof on oath that a murder has been committed by the said fugitive within the said government, who shall thereon issue his warrant to the marshal or deputy marshal of the same place to arrest the fugitive and have him before the said district Judge; or the said pursuer may apply to such Marshal or Deputy marshal directly, who, on exhibition of proof as aforesaid, shall thereupon arrest the fugitive, and carry him before the said district judge, and when before him in either way, he shall, within not less than days nor more than hold a special court of inquiry, causing a grand jury to be summoned thereto, and charging them to inquire whether the fugitive hath committed a murder, not of the nature of treason, within the province demanding him, and on their finding a true bill, the judge shall order the officer in whose

them so much of it as they approve, filling up the blank for the manner of the demand by us & compliance by them, in such a way as their laws & the organization of their government may require. But recollect that they bound on us between two & three thousand miles, and consequently that they should authorize a delivery by some description of officers to be found on every inhabited part of their border. We have thought it best to agree specially the manner of proceeding *in our country* on a demand of theirs, because the convention will in that way execute itself, without the necessity of a new law for the purpose. Your general powers being comprehensive enough to take in this subject, no new ones are issued."

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custody the fugitive is, to deliver him over to the person authorized as aforesaid to receive him, and shall give such further authorities to aid the said person in safe keeping and conveying the said fugitive to the limits of the United States as shall be necessary and within his powers; and his powers shall expressly extend to command the aid of *posse* of every district through which the said fugitive is to be carried. And the said justices, judges, and other officers shall use in the premises the same process and proceedings, *mutatis mutandis*, and govern themselves by the same principles and rules of law as in cases of murder committed on the high Seas.

And the manner of demand by the United States and of compliance by the Spanish government, shall be as follows. The person authorized by a justice of the Supreme court of the United States, or by the district judge where the murder was committed, to pursue the fugitive, may apply to

Evidence on oath, though written, and *ex parte*, shall have the same weight with the Judge and grand jury in the preceding cases, as if the same had been given before them orally, and in presence of the prisoner.

The courts of Justice of the said States, and provinces shall be reciprocally open for the demand and recovery of debts due to any person inhabiting the one, from any person fled therefrom and found in the other, in like manner as they are open to their own Citizens: likewise for the recovery of the property, or the value thereof carried away from any person inhabiting the one, by any person fled there-

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from and found in the other, which carrying away shall give a right of civil action, whether the fugitive came to the original possession lawfully or unlawfully, even feloniously; likewise for the recovery of damages sustained by any forgery committed by such fugitive. And the same provision shall hold in favor of the representatives of the original creditor or sufferer, and against the representatives of the original debtor, carrier away, or forger: also in favor of either government or of corporations as of natural persons. But in no case shall the person of the defendant be imprisoned for the debt, tho' the process, whether original, mesne, or final be, for the form sake, directed against his person. If the time between the flight and the commencement of the action exceed not years it shall be counted but as one day under any act of limitations.

This Convention shall continue in force years from the exchange of ratifications, and shall not extend to anything happening previous to such exchange.

TO MARTHA JEFFERSON RANDOLPH [1]

PHILADELPHIA, March 22d, 1792.

MY DEAR MARTHA,—Yours of February 20th came to me with that welcome which everything brings from you. It is a relief to be withdrawn from the torment of the scenes amidst which we are. Spectators of the heats and tumults of conflicting parties, we cannot help participating of their feelings. I

[1] From S. N. Randolph's *Domestic Life of Jefferson.*

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should envy you the tranquil occupations of your situation, were it not that I value your happiness more than my own, but I too shall have my turn. The ensuing year will be the longest of my life, and the last of such hateful labors; the next we will sow our cabbages together. Maria is well. Having changed my day of writing from Sunday to Thursday or Friday, she will oftener miss writing, as not being with me at the time. I believe you knew Otchakitz, the Indian who lived with the Marquis de Lafayette. He came here lately with some deputies from his nation, and died here of pleurisy. I was at his funeral yesterday; he was buried standing up, according to their manner. I think it will still be a month before your neighbor, Mrs. Monroe, will leave us. She will probably do it with more pleasure than heretofore, as I think she begins to tire of the town and feel a relish for scenes of more tranquillity. Kiss dear Anne for her aunt, and twice for her grandpapa. Give my best affections to Mr. Randolph, and accept yourself all my tenderness.

TO DAVID CAMPBELL J. MSS.

PHILADELPHIA, MAR. 27. 1792.

SIR,—Your favor of Feb. 25 by Mr. Allison has been duly received. Having been now 17 years out of the practice of the law, and my mind too constantly occupied in a different line to permit my keeping up my law reading; those subjects are now too little familiar to me to venture a law opinion on

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the question discussed in the charge you were so kind as to send me. I am much pleased with the mention therein made that the people are happy under the general government. That it is calculated to produce general happiness, when administered in it's true republican spirit, I am thoroughly persuaded. I hope too that your admonitions against encroachments on the Indian lands will have a beneficial effect. The U. S. find an Indian war too serious a thing to risk incurring one merely to gratify a few intruders with settlements which are to cost the other inhabitants of the U. S. a thousand times their value in taxes for carrying on the war they produce. I am satisfied it will ever be preferred to send an armed force and make war against the intruders as being more just & less expensive. A new post extended to the south western territory will I hope soon open a more regular communication with that country.

TO THE PRESIDENT OF THE UNITED STATES J. MSS.

PHILADELPHIA, Mar. 28, 1792.

SIR,—I have the honor to inclose you two letters from Judge Symmes of Jan. 25th & 27th. His letter of Sep. 17. mentioned in the first of these was received by me Nov. 23. and after being laid before you, was answered Dec. 4. The part of the answer respecting his leave from you to come to Philadelphia was in these words: "The President does not conceive that the Constitution has given him any

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controul over the proceedings of the Judges, and therefore considers that his permission or refusal of absence from your district would be merely rogatory."

With respect to the escort for the judges on their circuits, you will be pleased to determine whether the good of the service will permit them to have one from the military, or whether that part of the letter shall be laid before the legislature to make regular provision for an escort. That part of the letter respecting jails must, as I apprehend, be laid before the legislature.

The complaint against Capt. Armstrong in the letter of Jan. 27. coming formally from a judge, will require notice. A civil prosecution in the courts of the Territory appears to me most proper. Perhaps a formal instruction to the Governor as Commander in chief to put his officers on their guard against any resistance to civil process might have the effect of preventing future disputes. I shall have the honor of waiting on you to take your pleasure on these several subjects, & have now that of being with sentiments of profound respect & sincere attachment Sir &c

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TO JACOB BLACKWELL

PHILADELPHIA, Apr. 1. 1792.

SIR,—Mr. Remsen having now decided definitively to resign his Office of Chief-clerk, I have considered,

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with all the impartiality in my power, the different grounds on which yourself & Mr. Taylor stand in competition for the succession. I understand that he was appointed about a month before you, and that you came into actual service about a month before him. These circumstances place you so equally, that I cannot derive from them any ground of preference. Yet obliged to decide one way or the other, I find in a comparison of your conditions a circumstance of considerable equity in his favor. He is a married man, with a family; yourself single. There can be no doubt but that 500. dollars place a single man as much at his ease as 800. to a married one. On this single circumstance then I have thought myself bound to appoint Mr. Taylor Chief-clerk, and I beg you to be assured that it is the only motive which has decided in my mind. That it has given me more pain to make the decision, than to you to learn it, having had every reason to be entirely satisfied as well with your conduct as with his since I have been in the office & being with real esteem Sir your friend & servt.

TO WILLIAM BARTON J. MSS.

PHILADELPHIA, Apr. 1. 1792.

SIR,—I did not sooner answer your favor of the 19th because I have had reason till now to doubt whether Mr. Remsen was decided to resign his office of Chief-clerk with me. In the mean time too I found there would be real difficulties from the other

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clerks the senior of whom thought himself entitled to succeed, & the juniors to approach so much nearer to the succession, and that if cut off from this prospect I should lose them all. This would be to me an irreparable loss, because the two seniors have been very long in the office, are perfectly intimate with all the papers & proceedings for years back, to all of which I am an utter stranger, & to which consequently they serve me as an index. I had mentioned this difficulty to Mr. Rittenhouse & further that I thought you would not entertain a moment's wish for the Office if you knew that it offers nothing but one continued scene of drudgery in copying papers & close attendance from morning till night. I could not myself conceive you could submit to such an uninteresting & unimproving labour, and therefore can only hope now, that conceiving myself bound in justice to give it to the present senior clerk, some other occasion may occur more worthy of you, & towards which I may be of some use to you, being with real esteem Sir your most obedt. humble servt.

TO HUGH WILLIAMSON J. MSS.

April 1st. 1792.

Th: Jefferson presents his compliments to Dr. Williamson & returns him the draught of the bill of projects, with the alterations he proposes to it. These will certainly put the business into a more steady channel, and one more likely by the establishment of fixed rules, to deal out justice without partiality or

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favouratism. Above all things he prays to be relieved from it, as being, of everything that ever was imposed on him, that which cuts up his time into the most useless fragments and gives him from time to time the most poignant mortification. The subjects are such as would require a great deal of time to understand & do justice by them, and not having that time to bestow on them, he has been oppressed beyond measure by the circumstances under which he has been obliged to give undue & uninformed opinions on rights often valuable, & always deemed so by the authors.

TO THE GOVERNOR OF SOUTH CAROLINA J. MSS.

PHILADELPHIA April 1, 1792.

SIR,—Your letter of Jan. 8 to the President of the U. S. having been referred to me, I have given the subject of it as mature consideration as I am able. Two neighboring and free governments, with laws equally mild & just, would find no difficulty in forming a convention for the interchange of fugitive criminals. Nor would two neighboring despotic governments, with laws of equal severity. The latter wish that no door should be open to their subjects flying from the oppression of their laws. The fact is that most of the governments on the continent of Europe have such conventions: but England, the only free one, till lately, has never yet consented either to enter into a convention for this purpose or to give up a fugitive. The difficulty between a

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free government and despotic one is indeed great. I have the honor to inclose to your Excellency a sketch of the Considerations which occurred to me on the subject, & which I laid before the President. He has in consequence instructed me to prepare a project of a convention to be proposed to the court of Madrid; which I have accordingly done, & now inclose a copy of it. I wish it may appear to you satisfactory. Against property we may hope it would be effectual; whilst it leaves a door open to life & liberty except in a single unquestionable case. Messrs. Carmichael & Short will be instructed to make this one of the subjects of their negotiation with the court of Spain.

OPINION ON THE BILL APPORTIONING REPRESENTATION [1]

J. MSS.

April 4. 1792.

The Constitution has declared that representatives and direct taxes shall be apportioned among the several States according to their respective numbers. That the number of representatives shall not exceed one for every 30,000, but each State shall have at least one representative, and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose 3, Massachusetts 2. &c.

The bill for apportioning representatives among

[1] Hamilton's and Randolph's Opinions are printed in Hamilton's *Writings of Hamilton*, IV., 207; as also a summary of the three by Jefferson.

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the several States, without explaining any principle at all, which may show its conformity with the constitution, to guide future apportionments, says, that New Hampshire shall have 3 members, Massachusetts 16, &c. We are, therefore, to find by experiment what has been the principle of the bill; to do which, it is proper to state the federal or representable numbers of each State, and the numbers allotted to them by the bill. They are as follows:—

		Members.
Vermont	85,532	3
New Hampshire	141,823	5
Massachusetts	475,327	16
Rhode Island	68,444	2
Connecticut	285,941	8
New York	352,915	11
New Jersey	179,556	6
Pennsylvania	432,880	14
Delaware	55,538	2
Maryland	278,513	9
Virginia	630,558	21
Kentucky	68,705	2
North Carolina	353,521	12
South Carolina	206,236	7
Georgia	70,843	2
	3,636,312	120

It happens that this representation, whether tried as between great and small States, or as between north and south, yields, in the present instance, a tolerably just result; and, consequently, could not be objected to on that ground, if it were obtained by the process prescribed in the Constitution; but

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if obtained by any process out of that, it becomes arbitrary and inadmissible.

The 1st member of the clause of the Constitution above cited is express, that representatives shall be apportioned among the several States according to their *respective numbers*. That is to say, they shall be apportioned by some common ratio—for proportion, and ratio, are equivalent words; and, in the definition of *proportion among numbers*, that they have a ratio common to all, or in other words, a common divisor. Now, trial will show that there is no common ratio, or divisor, which, applied to the numbers of each State, will give to them the number of representatives allotted in this bill. For trying the several ratios of 29, 30, 31, 32, 33, the allottments would be as follows:—

	29	30	31	32	33	The Bill.
Vermont	2	2	2	2	2	3
New Hampshire	4	4	4	4	4	5
Massachusetts	16	15	15	14	14	16
Rhode Island	2	2	2	2	2	2
Connecticut	8	7	7	7	7	8
New York	12	11	11	11	10	11
New Jersey	6	5	5	5	5	6
Pennsylvania	14	14	13	13	13	14
Delaware	1	1	1	1	1	2
Maryland	9	9	8	8	8	9
Virginia	21	21	20	19	19	21
Kentucky	2	2	2	2	2	2
North Carolina	12	11	11	11	10	12
South Carolina	7	6	6	6	6	7
Georgia	2	2	2	2	2	2
	118	112	109	107	105	120

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Then the bill reverses the constitutional precept, because, by it, representatives are *not* apportioned among the several States, according to their respective numbers.

It will be said that, though, for taxes, there may always be found a divisor which will apportion them among the States according to numbers exactly, without leaving any remainder, yet, for *representatives*, there can be no such common ratio, or divisor which, applied to the several numbers, will divide them exactly, without a remainder or fraction. I answer, then, that taxes must be divided *exactly*, and representatives *as nearly* as the *nearest*, *ratio* will admit; and the fractions must be neglected, because the Constitution calls absolutely that there be an *apportionment or common ratio*, and if any fractions result from the operation, it has left them unprovided for. In fact it could not but foresee that such fractions would result, and it meant to submit to them. It knew they would be in favor of one part of the Union at one time, and of another at another, so as, in the end, to balance occasional irregularities. But instead of such a *single* common ratio, or uniform divisor, as prescribed by the Constitution, the bill has applied *two ratios*, at least, to the different States, to wit, that of 30.026 to the seven following: Rhode Island, New York, Pennsylvania, Maryland, Virginia, Kentucky and Georgia; and that of 27,770 to the eight others, namely: Vermont, New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, North Carolina, and South Carolina,

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as follows:—

Rhode Island	68,444	divided by	30,026	gives 2
New York	352,917	"	"	" 11
Pennsylvania	432,880	"	"	" 14
Maryland	278,513	"	"	" 9
Virginia	630,558	"	"	" 21
Kentucky	68,705	"	"	" 2
Georgia	70,843	"	"	" 2
Vermont	85,532	divided by	27,770	gives 3
New Hampshire . . .	141,823	"	"	" 5
Massachusetts . . .	475,327	"	"	" 16
Connecticut	235,941	"	"	" 8
New Jersey	179,556	"	"	" 6
Delaware	55,538	"	"	" 2
North Carolina . . .	353,521	"	"	" 12
South Carolina . . .	206,236	"	"	" 7

And if *two* ratios be applied, then *fifteen* may, and the distribution become arbitrary, instead of being apportioned to numbers. Another member of the clause of the Constitution which has been cited, says "the number of representatives shall not exceed one for every 30,000, but each State shall have at least one representative." This last phrase proves that it had no contemplation that all fractions, or *numbers below the common ratio* were to be unrepresented; and it provides especially that in the case of a State whose whole number shall be below the common ratio, one representative shall be given to it. This is the single instance where it allows representation to any smaller number than the common ratio, and by providing especially for it in this, shews it was understood that, without special provision, the smaller number would in this case, be involved

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in the general principle. The first phrase of the above citations, that "the number of representatives shall not exceed one for every 30,000, is violated by this bill which has given to eight States a number exceeding one for every 30,000, to wit, one for every 27,770.

In answer to this, it is said that this phrase may mean either the 30,000 *in each State*, or the 30,000 *in the whole Union*, and that in the latter case it serves only to find the amount of the whole representation; which, in the present state of population, is 120 members. Suppose the phrase might bear both meanings, which will common sense apply to it? Which did the universal understanding of our country apply to it? Which did the Senate and Representatives apply to it during the pendency of the first bill, and even till an advanced stage of this second bill, when an ingenious gentleman found out the doctrine of fractions, a doctrine so difficult and inobvious, as to be rejected at first sight by the very persons who afterwards became its most zealous advocates?

The phrase stands in the midst of a number of others, every one of which relates to States in their separate capacity. Will not plain common sense then, understand it, like the rest of its context, to relate to States in their separate capacities?

But if the phrase of one for 30,000 is only meant to give the aggregate of representatives, and not at all to influence their apportionment among the States, then the 120 being once found, in order to apportion them, we must recur to the former rule

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which does it according to the numbers of *the respective States;* and we must take the *nearest common divisor*, as the ratio of distribution, that is to say, that divisor which, applied to every State, gives to them such numbers as, added together, come nearest to 120. This nearest common ratio will be found to be 28,058, and will distribute 119 of the 120 members, leaving only a single residuary one. It will be found too to place 96,648 fractional numbers in the eight northernmost States, and 105,582 in the seven southernmost. The following table shows it:

	Ratio, 28,058		Fraction.	
Vermont	85,532	2	27,816	
New Hampshire . . .	141,823	4	26,391	
Massachusetts . . .	475,327	16	13,599	
Rhode Island . . .	68,444	2	10,728	
Connecticut	235,941	8	5,077	
New York	352,915	12	6,619	
New Jersey	179,556	6	6,408	
Pennsylvania . . .	432,880	15	10	96,648
Delaware	55,538	1	26,680	
Maryland	278,513	9	18,791	
Virginia	630,558	21	24,540	
Kentucky	68,705	2	10,989	
North Carolina . . .	353,521	12	7,225	
South Carolina . . .	206,236	7	4,230	
Virginia	70,843	2	13,137	105,582
	3,636,312	119	202,230	202,230

Whatever may have been the intention, the effect of neglecting the nearest divisor, (which leaves but one residuary member,) and adopting a distant one

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(which leaves eight), is merely to take a member from New York and Pennsylvania, each, and give them to Vermont and New Hampshire. But it will be said, this is giving more than one for 30,000. True, but has it not been just said that the one for 30,000 is prescribed only to fix the aggregate number, and that we are not to mind it when we come to apportion them among the States? That for this we must recur to the former rule which distributes them according to the numbers in each State? Besides does not the bill itself apportion among seven of the States by the ratio of 27,770? which is much more than one for 30,000.

Where a phrase is susceptible of two meanings, we ought certainly to adopt that which will bring upon us the fewest inconveniences. Let us weigh those resulting from both constructions.

From that giving to each State a member for every 30,000 in that State results the single inconvenience that there may be large portions unrepresented, but it being a mere hazard on which State this will fall, hazard will equalize it in the long run. From the others result exactly the same inconvenience. A thousand cases may be imagined to prove it. Take one. Suppose eight of the States had 45,000 inhabitants each, and the other seven 44,999 each, that is to say each one less than each of the others. The aggregate would be 674,993, and the number of representatives at one for 30,000 of the aggregate, would be 22. Then, after giving one member to each State, distribute the seven residuary members among the seven highest fractions, and though the

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difference of population be only an unit, the representation would be the double.

			Fractions.
1st.	45,000	2	15,000
2d.	45,000	2	15,000
3d.	45,000	2	15,000
4th.	45,000	2	15,000
5th.	45,000	2	15,000
6th.	45,000	2	15,000
7th.	45,000	2	15,000
8th.	45,000	1	15,000
9th.	44,999	1	14,999
10th.	44,999	1	14,999
11th.	44,999	1	14,999
12th.	44,999	1	14,999
13th.	44,999	1	14,999
14th.	44,999	1	14,999
15th.	44,999	1	14,999
	674,993	22	

Here a single inhabitant the more would count as 30,000. Nor is the case imaginable, only it will resemble the real one whenever the fractions happen to be pretty equal through the whole States. The numbers of our census happen by accident to give the fractions all very small, or very great, so as to produce the strongest case of inequality that could possibly have occurred, and which may never occur again. The probability is that the fractions will generally descend gradually from 29,999 to 1. The inconvenience then of large unrepresented fractions attends both constructions; and while the most obvious construction is liable to no other, that of the bill incurs many and grievous ones.

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1. If you permit the large fraction in one State to choose a representative for one of the small fractions in another State, you take from the latter its election, which constitutes real representation, and substitute a virtual representation of the disfranchised fractions, and the tendency of the doctrine of virtual representation has been too well discussed and appreciated by reasoning and resistance on a former great occasion to need development now.

2. The bill does not say that it has given the residuary representatives *to the greatest fraction;* though in fact it has done so. It seems to have avoided establishing that into a rule, lest it might not suit on another occasion. Perhaps it may be found the next time more convenient to distribute them *among the smaller States;* at another time *among the larger States;* at other times according to any other crotchet which ingenuity may invent, and the combinations of the day give strength to carry; or they may do it arbitrarily by open bargains and cabal. In short this construction introduces into Congress a scramble, or a vendue for the surplus members. It generates waste of time, hot blood, and may at some time, when the passions are high, extend a disagreement between the two Houses, to the perpetual loss of the thing, as happens now in the Pennsylvania assembly; whereas the other construction reduces the apportionment always to an arithmetical operation, about which no two men can ever possibly differ.

3. It leaves in full force the violation of the precept which declares that representatives shall be

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apportioned among the States according to their numbers, *i. e.*, by some common ratio.

Viewing this bill either as a *violation of the constitution*, or as giving an *inconvenient exposition of its words*, is it a case wherein the President ought to interpose his negative? I think it is.

1. The non-user of his negative begins already to excite a belief that no President will ever venture to use it; and has, consequently, begotten a desire to raise up barriers in the State legislatures against Congress, throwing off the control of the constitution.

2. It can never be used more pleasingly to the public, than in the protection of the constitution.

3. No invasions of the constitution are fundamentally so dangerous as the tricks played on their own numbers, apportionment, and other circumstances respecting themselves, and affecting their legal qualifications to legislate for the union.

4. The majorities by which this bill has been passed (to wit: of one in the Senate and two in the Representatives) show how divided the opinions were there.

5. The whole of both houses admit the constitution will bear the other exposition, whereas the minorities in both deny it will bear that of the bill.

6. The application of any one ratio is intelligible to the people, and will, therefore be approved, whereas the complex operations of this bill may never be comprehended by them, and though they may acquiesce, they cannot approve what they do not understand.

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DRAFT OF PRESIDENT'S MESSAGE VETOING APPORTIONMENT BILL J. MSS.

April 5, 1792.

GENTLEMEN OF THE H. OF REPRESENTATIVES,— I have maturely considered the bill passed by the two houses for and I return it to your house, wherein it originated, with the following objections. 1. The Constitution has prescribed that Representatives shall be apportioned among the several states according to their respective members: and there is no one proportion or division which, applied to the respective numbers of the states will yield the number and allotment of representatives proposed by the bill. 2. The Constitution has also provided that the number of representatives shall not exceed one for every thirty thousand, which restriction is by the contract, & by fair and obvious construction, to be applied to the separate & respective numbers of the states: and the bill has allotted to eight of the states more than one for thirty thousand.

TO THE U. S. MINISTER TO PORTUGAL J. MSS.

(DAVID HUMPHREYS)

PHILADELPHIA, Apr. 9. 1792.

DEAR SIR,—My last to you were of the 29th of Nov. & 13th of Dec. I have now to acknowledge the receipt of your Nos 34 to 44—inclusive. The river here & at New York having remained longer blocked with ice than has been usual, has occasioned

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a longer interval than usual between my letters. I am particularly to acknolege that Mr. Barclay's receipt of draughts from you on our bankers in Holland for 32,175 florins has come safely to my hands & is deposited in my office where it will be found wrapped in the letter in which it came. You have been before informed of the failure of our arms against the Indians the last year. Gen! St. Clair has now resigned that command. We are raising our Western force to 5000 men.—The stock-jobbing speculations have occupied some of our countrymen to such a degree as to give sincere uneasiness to those who would rather see their capitals employed in commerce, manufactures, buildings, & agriculture. The failure of Mr. Duer, the chief of that description of people, has already produced some other bankruptcies & more are apprehended. He had obtained money from great numbers of small tradesmen & farmers, tempting them by usurious interest, which has made the distress very extensive. Congress will adjourn within a fortnight. The President negatived their representation bill, as framed on principles contrary to the constitution. I suppose another will be passed allowing simply a representative for every thirty or thirty-three thousand in each state. The troubles in the French island continue extreme. We have as yet heard of the arrival but of a few troops. There begins to be a reason to apprehend the negroes will perhaps never be entirely reduced.—A commission is issued to Mr. Carmichael & Mr. Short to treat with the court of Madrid on the subjects heretofore in negociation between us. I suppose Mr. Short will

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be in Madrid by the last of May. We expect Majr Pinkney here hourly on his way to London as our Minister Plenipotentiary to that court. For a state of our transactions in general, I refer you to the newspapers which accompany this. I put under your cover letters & newspapers for Mr. Carmichael & Mr. Barclay, which I pray you to contrive by some sure conveyances. We must make you for some time the common center of our correspondence.

QUESTIONS TO SENATE COMMITTEE[1] J. MSS.

[April 10, 1792.]

If the President should enter into a Provisional convention with the government of Algiers for a sum not exceeding 40.000 dollars, will the Senate advise & consent to it's ratification, the government of Algiers being made clearly to understand that we are not to be bound by the treaty until it shall be ratified?

If this sum appears too high, what lower limit would the Senate approve?

If the President should enter into a Provisional treaty of peace with the government of Algiers at an expence not exceeding dollars to be paid on the ratification, & dollars payable annually afterwards, during it's continuance, will the Senate advise and consent to the ratification, the government of Algiers being made clearly to understand that we

[1] See Vol. I, 205, 216. By a curious error this is printed in Hamilton's *Works of Hamilton* as a letter to Hamilton.

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are not to be bound by the treaty until it shall be ratified?

If these sums appears too high, what lower limits would the Senate approve.

TO JAMES MONROE J. MSS.

PHILADELPHIA, April 11. 1792.

MY DEAR SIR,—I think I told you at the time I spoke to you on the nomination that the President had desired me to enquire if there could be any opposition to Wayne.[1] I told him that you were of opinion there would be none, that you had not thought of making any yourself, for that tho' you did not like the appointment, yet you knew the difficulty of finding one which would be without objections. I take for granted this weighed with the President, because he had said he would not appoint one in whom he could foresee any material opposition. The only persons in the nomination, who were then mentioned, were Wayne, Morgan & Wilkenson; consequently my information could not have been understood as going to any others. Yours affectionately.

TO THE BRITISH MINISTER J. MSS.

(GEORGE HAMMOND)

PHILADELPHIA, April 12th 1792.

SIR,—I am this moment favored with the letter you did me the honor of writing yesterday, covering

[1] For command of army: See Vol. I, 203.

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the extract of a British Statute forbidding the admission of foreign Vessels into any Ports of the British Dominions with goods or commodities of the growth, production or manufacture of America. The effect of this appears to me so extensive as to induce a doubt whether I understand rightly the determination to inforce it, which you justify, and to oblige me to ask of you whether we are to consider it as so far a revocation of the Proclamation of your Government regulating the commerce between the two Countries, and that hence forth no articles of the growth, production, or manufacture of the United States are to be received in the Ports of Great Britain or Ireland in vessels belonging to the Citizens of the United States?

TO NICHOLAS LEWIS J. MSS.

PHILADELPHIA, Apr 12, 1792.

DEAR SIR,—Unremitting business must be my apology, as it is really the true one, for my having been longer without writing to you than my affections dictated. I am never a day without wishing myself with you, and more and more as the fine sunshine comes on, which seems made for all the world but me. Congress will rise about the 21st. They have passed the Representation bill at one for 35.000. which gives to Virginia 19. members. They have voted an army of 5.000. men, & the President has given the command to Wayne, with 4. brigadiers, to wit Morgan, Brooks, Willet & Wilkinson. Congress

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is now engaged on the ways & means of raising money to pay this army. A further assumption of State debts has been proposed by the Secretary of the Treasury, which has been rejected by a small majority: but the chickens of the treasury have so many contrivances & are so indefatigable within doors & without, that we all fear they will get it in some way or other. As the doctrine is that a public debt is a public blessing, so they think a perpetual one is a perpetual blessing, & therefore wish to make it so large that we can never pay it off.

I must ask the favor of you to send the bonds taken at my sale, to Mr. Eppes, who will deliver them to Hanson, and take a proper receipt, so as to clear me of the paiments of July next & July twelve month. I imagine Mr Randolph may be going to Richmond soon, in which case he can take charge of them so far, and find means of sending them over to Mr. Eppes. Should he not be going soon, then I must ask you to send them by such other safe means as can be procured. In every case I shall be obliged to you to keep a copy of one of the bonds, & a list of the whole, naming the sums, times of paiment, purchaser, security & the negroes for which each bond was given. I have written to Mr. Randolph on the subject of contriving the bonds to Mr. Eppes.—I am not certain whether I gave you power to dispose of Mary according to her desire to Colº Ball with such of her younger children as she chose. If I did not, I now do it, and will thank you to settle the price as you think best. The 1st day of July in every year being near my days of payment his might be

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fixed to that day of the present year & the next, just as you can agree. The bonds to be sent in like manner to Hanson. Be pleased to present my affectionate respects to Mrs. Lewis, and to accept yourself assurances of the sincere esteem with which I am Dear Sir Your friend & ser:

TO THE PRESIDENT OF THE UNITED STATES J. MSS.

PHILADELPHIA Apr 13 1792.

SIR,—I have the honor to lay before you a communication from Mr. Hammond Minister Plenipotentiary of his Britannic Majesty, covering a clause of a statute of that country relative to it's commerce with this, and notifying a determination to carry it into execution henceforward. Conceiving that the determination announced could not be really meant as extensively as the words import, I asked and received an explanation from the Minister, as expressed in the letter & answer herein inclosed: and, on consideration of all circumstances, I cannot but confide in the opinion expressed by him, that it's sole object is to exclude foreign vessels from the islands of Jersey & Guernsey. The want of proportion between the motives expressed & the measure, it's magnitude & consequences, total silence as to the Proclamation on which the intercourse between the two countries has hitherto hung, & of which, in this broad sense, it would be a revocation, & the recent manifestations of the disposition of that government to concur with this in mutual offices of

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friendship & good will, support his construction. The Minister moreover assured me verbally that he would immediately write to his court for an explanation & in the meantime is of opinion that the usual intercourse of commerce between the two countries (Jersey & Guernsey excepted) need not be suspended.

TO FRANCIS EPPES J. MSS.

PHILADELPHIA April 14, 1792.

DEAR SIR,—I duly received your favor of the 11th with the pamphlet it inclosed, for which be pleased to accept my thanks. On accepting the office I am in, I knew I was to set myself up as a butt of reproach not only for my own errors, but for the errors of those who would undertake to judge me—it was the objection which longest delayed my acquiescence in the President's appointment. I have therefore to console myself that obloquy has begun upon me so late as to spare me a longer interval of satisfaction than expected: & that however ardently my retirement to my own home & my own affairs, may be wished for by others as the author sais there is no one of them who feels the wish once where I do a thousand times. The pamphlet was written & printed here. It's author has given so many points where by to try him, that he cannot be mistaken by one who will attend to all his opinions & who knows the characters here.

I learn with real concern the calamities which are fallen on New York & which must fall on this place also. No man of reflection who had ever at-

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tended to the south sea bubble, in England, or that of Law in France, and who applied the lessons of the past to the present time, could fail to foresee the issue tho' he might not calculate the moment at which it would happen. The evidences of the public debt are solid & sacred. I presume there is not a man in the U. S. who would not part with his last shilling to pay them. But all that stuff called scrip, of whatever description, was folly or roguery and under a resemblance to genuine public paper, it buoyed itself up to a par with that—it has given a severe lesson: yet such is the public gullability in the hands of cunning & unprincipled men, that it is doomed by nature to receive these lessons once in an age at least. Happy if they now come about & get back into the tract of plain unsophisticated common sense which they ought never to have been decoyed from. It was reported here last night that there had been a collection of people round the place of Duer's confinement of so threatening an appearance as to call out the Governor & Militia, & to be fired on by them: and that several of them were killed. I hope it is not true. Nothing was wanting to fill up the criminality of this paper system, but to shed the blood of those whom it had cheated of their substance.

TO THOMAS MANN RANDOLPH J. MSS.

PHILADELPHIA, April 19th 1792.

DEAR SIR,—Yours of Mar. 27. & Martha's of Mar. 28. come to hand on the 14th with one of April. 2. to

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Maria. I am sorry to hear my sugar maples have failed. I shall be able however to get here any number I may desire, as two nurserymen have promised to make provision for me. It is too hopeful an object to be abandoned.

Your account of Clarkson's conduct gives me great pleasure. My first wish is that the labourers may be well treated, the second that they may enable me to have that treatment continued by making as much as will admit it. The man who can effect both objects is rarely to be found. I wish you would take occasion to express to him the satisfaction I receive from this communication. If it would not be too much trouble for you to inform me how much wheat, rye & corn constitutes the growing crop in Albemarle, I shall be obliged to you. I am glad to hear that Clark was about getting his tobacco down. At length our paper bubble is burst. The failure of Duer, in New York, soon brought on others, & these still more, like nine pins knocking one another down, till at that place the bankruptcy is become general, every man concerned in paper being broke, and most of the tradesmen & farmers, who had been laying down money, having been tempted by these speculators to lend it to them at an interest of from 3. to 6. pr cent a month, have lost the whole. It is computed there is a dead loss at New York of about 5 millions of dollars, which is reckoned the value of all the buildings of the city: so that if the whole town had been burnt to the ground it would have been just the measure of the present calamity, supposing goods to have been saved. In Boston

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the dead loss is about a million of dollars. The crisis here was the day before yesterday, which was a great day for payments. The effect will not be public in two or three days more. It is conjectured that their loss will be about equal to that of Boston. In the mean time, buildings & other improvements are suspended. Workmen turned adrift. Country produce not to be sold at any price: because even substantial merchants, who never medelled with paper, cannot tell how many of their debtors have medelled & may fail: consequently they are afraid to make any new money arrangements till they shall know how they stand. As much of the demand from Virginia, & especially for wheat, & indeed tobacco, is from this place, I imagine the stagnation of purchases, & trouble of prices will reach you immediately. Notwithstanding the magnitude of this calamity, every newspaper almost is silent on it, Freneau's excepted, in whom you will see it mentioned. Give my love to my dear Martha, & accept assurances of sincere esteem from, Dear Sir, yours affectionately.

TO WILLIAM SHORT J. MSS.

PHILADELPHIA, Apr. 24. 1792.

DEAR SIR,—In my private letter of Mar. 18. I gave you notice that I should lodge subsequent ones perhaps at Bordeaux, after which I know no prospect of writing to you again till you leave Spain with any hope of your getting the letter. I mentioned to you the failure of some of the primary speculators, in New York. The crash has been

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tremendous & far beyond our expectation at that time. The dead loss at New York has been equal to the value of all the buildings of the city, say between 4. & 5. millions of dollars. Boston has lost about a million. This place something less. Paper of the debt of the U. S. is scarcely at par. Bank stock is at 25. per cent—it was once upwards of 300. per cent.—What a loss you would have suffered if we had laid out your paper for bank-stock. The losses on this occasion would support a war such as we now have on hand, five or six years. Thus you will see that the calamity has been greater in proportion than that of the south sea in England, or Law in France. Tho' it would have been improper for me to have given at any time, an opinion on the subject of stocks to Mr. Brown or any man dealing in them, yet I have been unable to refrain from interposing for you on the present occasion. I found that your stock stood so as not to charge Donald and Co. I know Brown to be a good man, but to have dealt in paper. I did not know how far he was engaged; I knew that good men might sometimes avail themselves of the property of others in their power, to help themselves out of a present difficulty in an honest but delusive confidence that they will be able to repay, that the best men & those whose transactions stand all in an advantageous form, may fail by the failure of others. Under the impulse therefore of the general panic, I ventured to enter a caveat in the treasury office against permitting the transfer of any stock standing in your name or in any other for your use. This was on the 19th of

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April. I knew your stock had not been transferred before Mar. 31. and that from that time to this Mr. Brown had not been in Virginia, so as to give me a reasonable confidence that it had not been transferred between the 1st & 19th inst. If so it is safe. But it would be still safer invested in Ned Carter's lands at 5. dollars the acre, at which price I believe they could be bought. If you think so, & will send some authority, I am going to Virginia in July or August & will execute the commission for you. * * *

The letter of Sep. 1. covered a bill of exchange of John Vaughan on Le Coulteaux for 1000.— and another for £40. s-- to be negotiated & remitted to Mr. Fenwick at Bordeaux to buy me a stock of wines & I inclosed a letter for him as to the disposal of the money. In my letter of Nov. 25. I desired you to engage and send forward 30 dozen bottles of M. Dorsai's best still champagne for the President. Having no acknolgement of these letters I begin to fear they have miscarried. If they have come to hand since Dec. 30, I hope you will have executed the commissions before your departure for Spain. We expect Mr. Pinkney here everyday on his way to England, where he will probably be by the beginning of July. Congress will rise in about ten days. Adieu my dear Sir.

P. S.—Not knowing how long you may remain in Spain, nor when I can get another letter to you, I am to desire that your public letters of the ensuing fall & winter may not be addressed to me by name, but to the Secretary of State for the U. S. at Philadelphia.

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TO THE U. S. MINISTER TO FRANCE J. MSS.

(GOUVERNEUR MORRIS)

PHILADELPHIA Apr. 28. 1792.

DEAR SIR,—My last letter to you was of the 10th of March. The preceding one of Jan. 23 had conveyed to you your appointment as Minister Plenipotentiary to the court of France. The present will, I hope, find you there. I now inclose you the correspondence between the Secretary of the treasury & Minister of France on the subject of the monies furnished to the distresses of their colonies. You will perceive that the Minister chose to leave the adjustment of the terms to be settled at Paris between yourself and the king's ministers. This you will therefore be pleased to do on this principle that we wish to avoid any loss by the mode of payment, but would not chuse to make a gain which should throw loss on them. But the letters of the Secretary of the treasury will sufficiently explain the desire of the government, & be a sufficient guide to you.—I now inclose you the act passed by Congress for facilitating the execution of the Consular Convention with France. In a bill which has passed the H. of Representatives for raising monies for the support of the Indian war, while the duties on every other species of wine are raised from one to three fourths more than they were, the best wines of France will pay little more than the worst of any other country, to wit between 6. & 7 cents a bottle and where this exceeds 40 per cent on their cost, they will pay but the 40 per cent. I consider this

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latter provision as likely to introduce in abundance the cheaper wines of France, and the more so as the tax on ardent spirits is considerably raised. I hope that these manifestations of friendly dispositions towards that country, will induce them to repeal the very obnoxious laws respecting our commerce, which were passed by the preceding National assembly. The present session of Congress will pass over without any other notice of them than the friendly preferences before mentioned. But if these should not produce a retaliation of good on their part, a retaliation of evil must follow on ours. It will be impossible to defer longer than the next session of Congress, some counter-regulations for the protection of our navigation & commerce. I must entreat you therefore to avail yourself of every occasion of friendly remonstrance on this subject. If they wish an equal & cordial treaty with us, we are ready to enter into it. We would wish that this could be the scene of negotiation, from considerations suggested by the nature of our government which will readily occur to you. Congress will rise on this day sennight.—I inclose you a letter from Mrs. Greene who asks your aid in getting her son forwarded by the *Diligence* to London on his way to America. The letter will explain to you the mode & the means, and the parentage and genius of the young gentleman will ensure your aid to him. As this goes by the French packet, I send no newspapers, laws or other articles of that kind, the postage of which would be high.

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TO THE PRESIDENT OF THE UNITED STATES J. MSS.

PHILADELPHIA May 16, 1792.

DEAR SIR,—The day after your departure I received from a Mr. Green, a merchant now at N. York, through a third person, the following communication "that he had had very *late* advices from Spain, *by way of the Spanish islands*, to this effect, that war with France was inevitable, that troops were marching from all quarters of the kingdom to the frontiers, & that 50. sail of the line had been commissioned." This was permitted to be mentioned to me, but, for particular reasons, to no other person. I suppose the particular reasons were some mercantile speculation founded on the intelligence: perhaps it may be to buy up all our flour. We have London news from the 1st of April, and nothing of this is mentioned. I have a letter from Colo. Humphreys of March 18. which says nothing of it. I am in hopes therefore the only effect will be to get us a good price for our flour or fish: this being our look out, while the success of the speculation is that of the adventurer.—You will recollect that we had learned the death of the emperor of Morocco after a battle in which he was victorious. The brother opposed to him it seems was killed in the same action, and the one Muley Islema, who had been so long in the sanctuary, is proclaimed Emperor. He was the best character of the three, and is likely to be peaceable. This information is from Colo. Humphreys. The Queen of Portugal is still in the same state. Wyllys does not pronounce her curable, tho' he says there is nothing which indicates the contrary. He

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has removed from her all her former physicians. Mr. Madison has favored me with some corrections for my letter to Mr. H.[1] It is now in the hands of the Attorney general, and shall then be submitted to Colo. Hamilton. I find that these examinations will retard the delivery of it considerably. However delay is preferable to error. Mr. Pinckney is engaged in going over such papers of my office as may put him in possession of whatever has passed between us & the court he is going to. I have 100 olive trees, and some caper plants arrived here from Marseilles, which I am sending on to Charleston, where Mr. Pinckney tells me they have already that number living of those I had before sent them. I have the honor to be, with sentiments of the most perfect respect & attachment, Dear Sir, Your most obedt. & most humble servt.

TO THE PRESIDENT OF THE UNITED STATES J. MSS.

PHILADELPHIA May 23. 1792.

DEAR SIR,—I have determined to make the subject of a letter, what for some time past, has been a subject of inquietude to my mind without having found a good occasion of disburthening itself to you in conversation, during the busy scenes which occupied you here. Perhaps too you may be able, in your present situation, or on the road, to give it more time & reflection than you could do here at any moment.

When you first mentioned to me your purpose

[1] The letter to Hammond of May 29, 1792.

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of retiring from the government, tho' I felt all the magnitude of the event, I was in a considerable degree silent. I knew that, to such a mind as yours, persuasion was idle & impertinent: that before forming your decision, you had weighed all the reasons for & against the measure, had made up your mind on full view of them, & that there could be little hope of changing the result. Pursuing my reflections too I knew we were some day to try to walk alone; and if the essay should be made while you should be alive & looking on, we should derive confidence from that circumstance, & resource if it failed. The public mind too was calm & confident, and therefore in a favorable state for making the experiment. Had no change of circumstances intervened, I should not, with any hope of success, have now ventured to propose to you a change of purpose. But the public mind is no longer confident and serene; and that from causes in which you are in no ways personally mixed. Tho these causes have been hackneyed in the public papers in detail, it may not be amiss, in order to calculate the effect they are capable of producing, to take a view of them in the mass, giving to each the form, real or imaginary, under which they have been presented.[1]

It has been urged then that a public debt, greater than we can possibly pay before other causes of adding new debt to it will occur, has been artificially created, by adding together the whole amount of

[1] Washington embodied the objections that follow in a letter to Hamilton (Ford's *Writings of Washington*, XII., 147), and Hamilton commented upon them in a paper sent to Washington Aug. 18, 1792. Hamilton's *Writings of Hamilton*, IV., 248.

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the debtor & creditor sides of accounts, instead of taking only their balances, which could have been paid off in a short time: That this accumulation of debt has taken for ever out of our power those easy sources of revenue, which, applied to the ordinary necessities and exigencies of government, would have answered them habitually, and covered us from habitual murmurings against taxes & tax-gatherers, reserving extraordinary calls, for those extraordinary occasions which would animate the people to meet them: That though the calls for money have been no greater than we must generally expect, for the same or equivalent exigencies, yet we are already obliged to strain the impost till it produces clamour, and will produce evasion, & war on our own citizens to collect it: and even to resort to an *Excise* law, of odious character with the people, partial in it's operation, unproductive unless enforced by arbitrary & vexatious means, and committing the authority of the government in parts where resistance is most probable, & coercion least practicable. They cite propositions in Congress and suspect other projects on foot still to increase the mass of debt. They say that by borrowing at $\frac{3}{5}$ of the interest, we might have paid off the principal in $\frac{4}{5}$ of the time: but that from this we are precluded by it's being made irredeemable but in small portions & long terms: That this irredeemable quality was given it for the avowed purpose of inviting it's transfer to foreign countries. They predict that this transfer of the principal, when compleated, will occasion an exportation of 3. millions

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of dollars annually for the interest, a drain of coin, of which as there has been no example, no calculation can be made of it's consequences: That the banishment of our coin will be compleated by the creation of 10. millions of paper money, in the form of bank bills, now issuing into circulation. They think the 10. or 12. percent annual profit paid to the lenders of this paper medium taken out of the pockets of the people, who would have had without interest the coin it is banishing: That all the capital employed in paper speculation is barren & useless, producing, like that on a gaming table, no accession to itself, and is withdrawn from commerce & agriculture where it would have produced addition to the common mass: That it nourishes in our citizens habits of vice and idleness instead of industry & morality: That it has furnished effectual means of corrupting such a portion of the legislature, as turns the balance between the honest voters which ever way it is directed: That this corrupt squadron, deciding the voice of the legislature, have manifested their dispositions to get rid of the limitations imposed by the constitution on the general legislature, limitations, on the faith of which, the states acceded to that instrument: That the ultimate object of all this is to prepare the way for a change, from the present republican form of government, to that of a monarchy, of which the English constitution is to be the model. That this was contemplated in the Convention is no secret, because it's partisans have made none of it. To effect it then was impracticable, but they are still eager after their

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object, and are predisposing every thing for it's ultimate attainment. So many of them have got into the legislature, that, aided by the corrupt squadron of paper dealers, who are at their devotion, they make a majority in both houses. The republican party, who wish to preserve the government in it's present form, are fewer in number. They are fewer even when joined by the two, three, or half dozen anti-federalists, who, tho they dare not avow it, are still opposed to any general government: but being less so to a republican than a monarchical one, they naturally join those whom they think pursuing the lesser evil.

Of all the mischiefs objected to the system of measures before mentioned, none is so afflicting, and fatal to every honest hope, as the corruption of the legislature. As it was the earliest of these measures, it became the instrument for producing the rest, & will be the instrument for producing in future a king, lords & commons, or whatever else those who direct it may chuse. Withdrawn such a distance from the eye of their constituents, and these so dispersed as to be inaccessible to public information, & particularly to that of the conduct of their own representatives, they will form the most corrupt government on earth, if the means of their corruption be not prevented. The only hope of safety hangs now on the numerous representation which is to come forward the ensuing year. Some of the new members will probably be either in principle or interest, with the present majority, but it is expected that the great mass will form an

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accession to the republican party. They will not be able to undo all which the two preceding legislatures, & especially the first, have done. Public faith & right will oppose this. But some parts of the system may be rightfully reformed; a liberation from the rest unremittingly pursued as fast as right will permit, & the door shut in future against similar commitments of the nation. Should the next legislature take this course, it will draw upon them the whole monarchical & paper interest. But the latter I think will not go all lengths with the former, because creditors will never, of their own accord, fly off entirely from their debtors. Therefore this is the alternative least likely to produce convulsion. But should the majority of the new members be still in the same principles with the present, & shew that we have nothing to expect but a continuance of the same practices, it is not easy to conjecture what would be the result, nor what means would be resorted to for correction of the evil. True wisdom would direct that they should be temperate & peaceable, but the division of sentiment & interest happens unfortunately to be so geographical, that no mortal can say that what is most wise & temperate would prevail against what is most easy & obvious? I can scarcely contemplate a more incalculable evil than the breaking of the union into two or more parts. Yet when we review the mass which opposed the original coalescence, when we consider that it lay chiefly in the Southern quarter, that the legislature have availed themselves of no occasion of allaying it, but on the contrary whenever Northern

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& Southern prejudices have come into conflict, the latter have been sacrificed & the former soothed; that the owners of the debt are in the Southern & the holders of it in the Northern division; that the Anti-federal champions are now strengthened in argument by the fulfilment of their predictions; that this has been brought about by the Monarchical federalists themselves, who, having been for the new government merely as a stepping stone to monarchy, have themselves adopted the very constructions of the constitution, of which, when advocating it's acceptance before the tribunal of the people, they declared it insusceptible; that the republican federalists, who espoused the same government for it's intrinsic merits, are disarmed of their weapons, that which they denied as prophecy being now become true history: who can be sure that these things may not proselyte the small number which was wanting to place the majority on the other side? And this is the event at which I tremble, & to prevent which I consider your continuance at the head of affairs as of the last importance. The confidence of the whole union is centred in you. Your being at the helm, will be more than an answer to every argument which can be used to alarm & lead the people in any quarter into violence or secession. North & South will hang together, if they have you to hang on; and, if the first correction of a numerous representation should fail in it's effect, your presence will give time for trying others not inconsistent with the union & peace of the states.

I am perfectly aware of the oppression under

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which your present office lays your mind, & of the ardor with which you pant for retirement to domestic life. But there is sometimes an eminence of character on which society have such peculiar claims as to controul the predelection of the individual for a particular walk of happiness, & restrain him to that alone arising from the present & future benedictions of mankind. This seems to be your condition, & the law imposed on you by providence in forming your character, & fashioning the events on which it was to operate; and it is to motives like these, & not to personal anxieties of mine or others who have no right to call on you for sacrifices, that I appeal from your former determination & urge a revisal of it, on the ground of change in the aspect of things. Should an honest majority result from the new & enlarged representation; should those acquiesce whose principles or interest they may controul, your wishes for retirement would be gratified with less danger, as soon as that shall be manifest, without awaiting the completion of the second period of four years. One or two sessions will determine the crisis; and I cannot but hope that you can resolve to add one or two more to the many years you have already sacrificed to the good of mankind.

The fear of suspicion that any selfish motive of continuance in office may enter into this sollicitation on my part obliges me to declare that no such motive exists. It is a thing of mere indifference to the public whether I retain or relinquish my purpose of closing my tour with the first periodical renovation of the government. I know my own measure

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too well to suppose that my services contribute any thing to the public confidence, or the public utility. Multitudes can fill the office in which you have been pleased to place me, as much to their advantage & satisfaction. I therefore have no motive to consult but my own inclination, which is bent irresistibly on the tranquil enjoyment of my family, my farm, & my books. I should repose among them it is true, in far greater security, if I were to know that you remained at the watch, and I hope it will be so. To the inducements urged from a view of our domestic affairs, I will add a bare mention, of what indeed need only be mentioned, that weighty motives for your continuance are to be found in our foreign affairs. I think it probable that both the Spanish & English negotiations, if not completed before your purpose is known, will be suspended from the moment it is known; & that the latter nation will then use double diligence in fomenting the Indian war.— With my wishes for the future, I shall at the same time express my gratitude for the past, at least my portion in it; & beg permission to follow you whether in public or private life with those sentiments of sincere attachment & respect, with which I am unalterably, Dear Sir, Your affectionate friend & humble servant.

END OF VOLUME VI

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